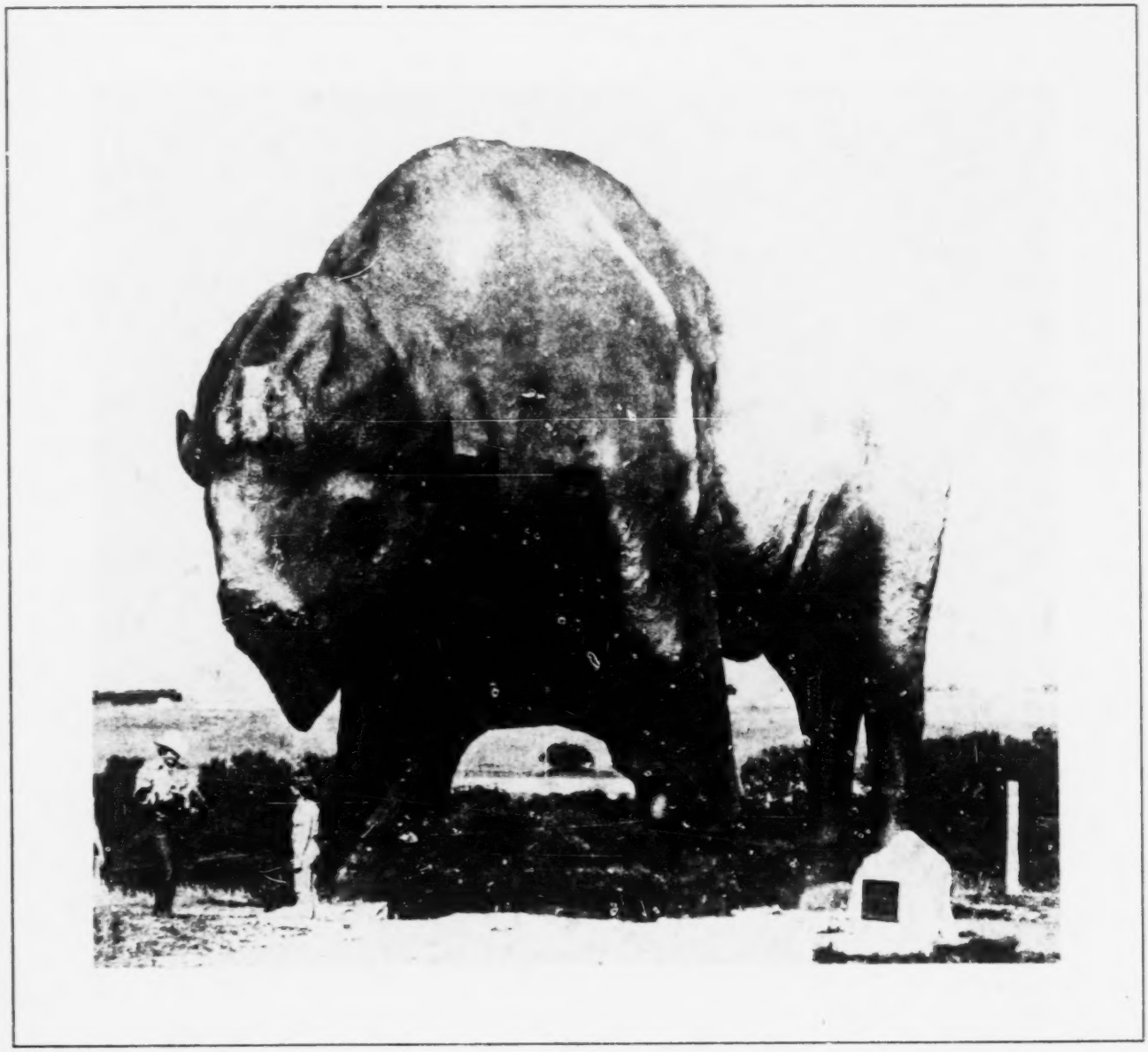
ANNUAL REPORT OF THE

NORTH DAKOTA JUDICIAL SYSTEM

Calendar Year 1983



NORTH DAKOTA JUDICIAL COUNCIL

State of North Dakota

OFFICE OF STATE COURT ADMINISTRATOR

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TO THE HONORABLE CHIEF JUSTICE
AND JUSTICES OF THE SUPREME COURT
OF THE STATE OF NORTH DAKOTA:

TO THE HONORABLE MEMBERS OF THE
NORTH DAKOTA JUDICIAL COUNCIL:

Once again, I am pleased to submit to you the Annual Report of the North Dakota judicial system. This report highlights the activities of the North Dakota judicial system during calendar year 1983. It provides statistical information on our courts and reports on other developments and activities which are shaping our judicial system. It will prove very valuable as a reference source for anyone wishing to learn about the operation of the judicial system in North Dakota.

I take this opportunity to publicly acknowledge the valuable assistance and cooperation extended to me by the judges and court personnel whose reports provided the information contained in the Annual Report. Particular thanks go to the staff of the State Court Administrator's Office for their diligent work in compiling the statistics and designing the format for this work.

Respectfully submitted,

William G. Bohn

WILLIAM G. BOHN
State Court Administrator and
Judicial Council Executive
Secretary

WGB/ms

Table of Contents

	Page
Indigent Defense Services in North Dakota	4
A Profile of the North Dakota Judicial System	7
The Supreme Court	8
The Workload of the Supreme Court	9
District Courts	11
Report of the Northwest Judicial District	17
Report of the Northeast Judicial District	18
Report of the Northeast Central Judicial District	19
Report of the East Central Judicial District	20
Report of the Southeast Judicial District	21
Report of the South Central Judicial District	22
Report of the Southwest Judicial District	23
County Courts	24
Municipal Courts	27
Administration of the Judicial System	29
Office of the State Court Administrator	30
Advisory Committees of the Judicial System	32
Disciplinary Board of the Supreme Court	35
Judicial Qualifications Commission	36
State Bar Board	36
Judicial Council	37
Membership of the North Dakota Judicial Council	38

Indigent Defense Services In North Dakota

BRUCE BOHLMAN

North Dakota is in the forefront of states which have developed programs specifically designed to develop standard and programs for the purpose of improving the quality of the defense services to those unable to afford the services of an attorney. How it has addressed the issue of providing the constitutional guarantee of the right to counsel to indigents charged with criminal offenses has undergone many changes in the past several years.

The State Bar Association of North Dakota has been instrumental in developing the foundation for the formation of the North Dakota Legal Counsel for Indigents Commission, the agency in North Dakota responsible for insuring the effective and efficient delivery of indigent defense services. In August of 1980, the State Bar Association of North Dakota began the Defense Delivery Project, a far ranging study which was concluded in May, 1981. The Defense Delivery Project was funded in part by the Law Enforcement Assistance Administration in an effort to determine the current effectiveness of the indigent defense delivery system and how the North Dakota experience might serve as a model for other rural states. The project was an ambitious and an important step in the overall improvement in the Criminal Justice System.

The project had its roots in the early 1970's when the North Dakota Law Enforcement Council funded a 10-County Pilot Public Defender Program, with its center in Bismarck. Both the 1973 and 1975 legislative sessions saw the introduction and the defeat of legislation that would have established a public defender system. In 1977, there was a study made by the National Legal Aid and Defender Association of North Dakota's defense services delivery system. As a result of this study, more legislation was introduced, but also failed. This legislation also centered on the Public Defender Model.

From these efforts the future course of Indigent Defense Services became clear more research would have to be done and an acceptable solution found which would address the objections to a public defender system as well as assess the alternatives. It became quite clear that perhaps a public defender system was not the only service delivery model and that other systems may be just as effective. The recognition that diverse delivery systems could operate in the state at the same time (in different counties) began to gain acceptance. North Dakota is, after all, a rural state with strong rural traditions, one of which is to oppose centralized government and to maintain the integrity of the county structure of government to the maximum extent possible. The public defender system was seen by some as an effort to centralize control, especially if it constituted a statewide program. Moreover, many state's attorneys opposed a full-time public defender system on the grounds that it would unfairly tip the scales in favor of the defendant, who would have a full-time specialist in criminal law at his disposal, while the state's attorney would have many other non-criminal law duties to attend to, as well as a private practice for those state's attorneys in the less populated counties.

The contract delivery system was also studied by the Defense Delivery Project. The contract delivery system utilizes private attorneys on a full or part-time basis to handle misdemeanors, felonies, or both types of cases, along with mental health hearings and Juvenile Court cases. It is similar in many respects to a public defender system, but it is usually less than full-time and is let on a competitive bid basis. The system may encourage cost effectiveness, but does not necessarily guarantee the highest quality service.

The assigned counsel system is the other alternative available for delivery of defense services, and, at the time of the study that was made in 1980-1981, most counties used this system in North Dakota. This system lacked effectiveness because of the difficulties in applying uniform standards from county to county concerning the definition of indigency and the overall administration of the assigned counsel system.

The State Bar Association of North Dakota recognized the need for further action and study based on the findings made by the project.

The Defense Delivery Project and its advisory committee, consisting of twenty-one members of the State Bar Association, Judiciary, and lay members, recommended that the most effective approach for North Dakota was to adopt Supreme Court rules dealing with the subject. The rules were to cover such areas as local option in the selection of a Defense Services Delivery System, a uniform definition of indigency, and most importantly, the creation of a permanent commission within the judicial branch. The commission was to provide overall guidance in the area of delivery of legal defense services, including the collection of data, reviewing the indigent defense plans of the various counties, and serving as a central clearing-house for all matters dealing with the legal defense of the indigent.

The need for a central commission became more apparent with the passage of the so-called "County Courts" bill in 1981, which made the state responsible for payment of indigent defense services on all felony matters. The North Dakota Supreme Court was faced with the difficult task of administering funds. The 1981 Legislature approved a budget of approximately $800,000.00 for the 1981-1983 biennium for payment of indigent defense services. In the 1983-1985 biennium, that figure doubled and the establishment of a commission to recommend procedures and guidelines became almost a necessity.

The North Dakota State Bar Association petitioned the Supreme Court for the establishment of a central commission in early 1981. The Supreme Court referred the petition to one of its advisory committees, the Court Services Administration Committee, for further study. The Committee suggested changes in the proposal and submitted it to the Supreme Court with a recommendation that an indigent defense commission be created. Effective as of July 1, 1981, the Supreme Court adopted Administrative Rule 18-1981 establishing the North Dakota Legal Council for Indigents Commission. The scope of the Commission's duties included the providing of guidelines and technical assistance to counties and judicial districts in the improvement of indigent defense services and the rendering the technical assistance to any county or judicial district in the establishment of an effective indigent defense services delivery system.

Pursuant to Administrative Rule 18-1981, the Commission consists of seven members, including three nominated from the State Bar Association, two from the Attorney General's office, one from the Judiciary, and one from the Association of County Governments. All Commission members are appointed by the Chief Justice. Because the Commission's membership represents those groups within the state most concerned with the providing of indigent defense services, it has allowed the blending of views which has been very useful in developing the guidelines promulgated by the Commission to date.

After approximately one year of study, including obtaining the views of all interested groups, the Commission published detailed guidelines in the following areas:

1. Financial guidelines establishing eligibility for defense services for indigent defendants pursuant to section 27-20-26 of the North Dakota Century Code;
2. Guidelines for payment of counsel fees and expenses for defense services for indigent defendants in appointed counsel counties;
3. Guidelines for defendant reimbursement of indigent defense cost procedures in North Dakota;
4. Developing a model contract for Counsel services for indigent defendants in North Dakota;
5. Developing model bid and award specifications and procedures for indigent defense service contracts in North Dakota.
6. Providing for procedures for the review of trial judge decisions regarding fees for counsel for indigent defense;
7. Developing a model agreement for collection agency services for defendant reimbursement of indigent defense costs.

Over the course of the last two years, the Commission has noted that the contract delivery system has received almost universal

acceptance in the state as the delivery vehicle for defense services. All but one judicial district now use the contract approach and it is hoped that all judicial districts will adopt a uniform approach to bidding and award of such contracts as well as a uniform system for administration of the contracts. The Commission has played a role in the acceptance of the contract method and continues to be active in providing guidelines and technical assistance to any county or judicial district that requests assistance.

But the Commission is also involved in other areas in addition to the contract delivery system. The assigned counsel system is still very active, especially at the county level where misdemeanors may still be handled outside of the contract method. In those counties, the Commission seeks to provide uniformity of standards for determination of indigency as well as reimbursement of defense counsel for services provided to defendants.

Perhaps the most important work being done by the Commission at this time is in the area of defining the future role of the Commission, especially as it pertains to the administration of indigent defense funds at the state level. There is currently much debate and concern over whether or not the judiciary should have control over the funds for payment of defense services. This debate revolves around potential conflicts of interest that may result from the judicial system's administration of these funds. The Commission is studying various approaches that may be taken to resolve these issues and will make its recommendations to the Supreme Court upon completion of its study. At this time, however, it is too early to determine what approach North Dakota may take. But the Commission is perhaps the most viable vehicle for the administration of the funds since it is specifically charged with responsibility for developing guidelines and providing technical assistance.

The other major area of activity within the Commission at this time is the development of guidelines for obtaining reimbursement of costs incurred in the defense of indigents. The Commission has developed a model contract for use by state's attorneys with collection agencies. A pilot project is being undertaken in Burleigh County by the state's attorney's office to determine whether using private collection agencies is an effective means of obtaining the greatest possible reimbursement of funds. The Commission is concerned that there be a significant recoupment of the funds from defendants in order to reduce the overall cost of the system to the people of the State of North Dakota, consistent with the primary objective of providing the indigent defendant with effective assistance of counsel.

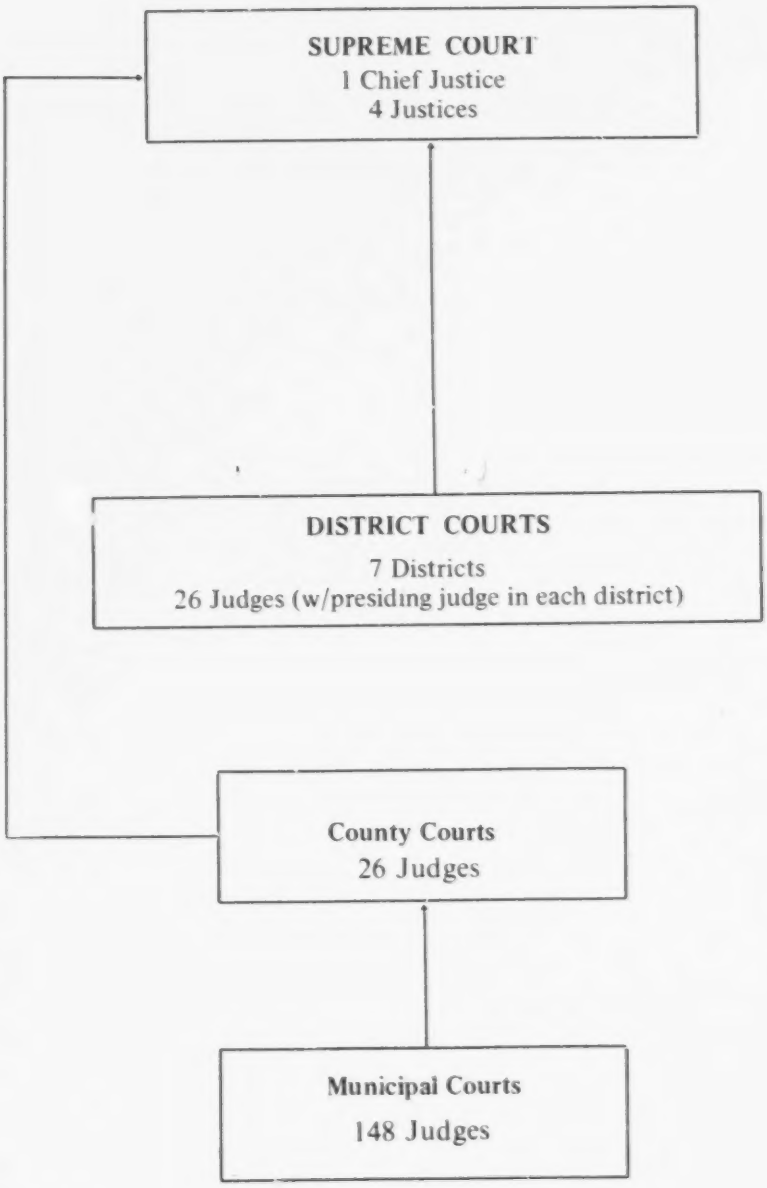
The future role of the Commission depends upon its acceptance by the judiciary, governmental agencies, and the practicing bar. The Commission has put forth considerable effort to date in providing a meaningful contribution to the development of an effective delivery system for defense services to indigents in the state, and everyone concerned can be assured that the Commission will continue to provide leadership in this vital area.

ABOUT THE AUTHOR

Bruce Bohlman is a practicing attorney in Grand Forks and a lecturer at the University of North Dakota School of Law. Since his admission to the North Dakota bar in 1969, Mr. Bohlman has served on numerous judicial and bar committees. As project director for the State Bar Association of North Dakota's Study Committee on Legal Representation for Indigents, he was instrumental in the creation of the North Dakota Legal Council for Indigents Commission. He currently serves as chairman of this Commission. In addition to his other professional activities, Mr. Bohlman has published several law review articles on various subjects.

FIGURE 1

The Court Structure of the North Dakota Judicial System



A Profile of the North Dakota Judicial System

Structure of the Court System

The original constitution of the State of North Dakota created a judicial system consisting of the supreme court, district courts, justice of the peace courts, and such municipal courts as provided by the legislature. This judicial structure remained intact until 1959 when the Legislature abolished the justice of peace courts in the state.

The adoption of a revamped judicial article to the state constitution in 1976 significantly modified the constitutional structure of the judicial system. The new judicial article vested the judicial powers of the state in a unified judicial system consisting of a supreme court, district courts, and such other courts as provided by law. Thus, under the new judicial article, only the supreme court and the district courts have retained their status as constitutional courts. All other courts in the state are statutory courts.

In 1981 the Legislature further altered the structure of the judicial system by enacting legislation which replaced the multi-level county court structure with a uniform system of county courts throughout the state. This new county court structure became effective on January 1, 1983.

With the new county court system in place, the judicial system of the state consists of the supreme court, district courts, county courts, and municipal courts. Figure 1 provides a diagram of the present court structure of the North Dakota Judicial System.

Administrative Authority

In addition to these structural changes, the new judicial article clarified the administrative responsibilities of the supreme court by designating the Chief Justice as the administrative head of the judicial system and by granting the Chief Justice the authority to assign judges for temporary duty in any nonfederal court in the state. It also acknowledged the supreme court's rulemaking authority in such areas as court procedure and attorney supervision. A diagram of the administrative structure of the North Dakota judicial system is presented in Figure 8.

Selection and Removal of Judges

All judges in North Dakota are elected in nonpartisan elections. Justices of the supreme court are elected for ten-year terms; district court judges for six-year terms, and all other judges for four-year terms.

Vacancies in the supreme court and the district courts can be filled either by a special election called by the governor or by gubernatorial appointment. However, before a vacancy can be filled by gubernatorial appointment, the Judicial Nominating Committee must first submit a list of nominees to the governor from which the governor makes an appointment. Whether the vacancy is filled by a special election or by appointment, the person filling the judicial vacancy serves only until the next general election. The person elected to the office at the general election serves for the remainder of the unexpired term.

Vacancies in the various county courts are filled by the board of county commissioners of the county where the vacancy occurs or by a special election called by the board of county commissioners. If the county commissioners choose to fill the vacancy by appointment, they must select from a list of nominees submitted by the Judicial Nominating Committee.

If a vacancy occurs in a municipal court, it is filled by the executive officer of the municipality with the consent of the governing body of the municipality.

Under the North Dakota Constitution only supreme court justices and district court judges can be removed from office by impeachment. All judges, however, are subject to removal, censure, suspension, retirement or other disciplinary action for misconduct by the supreme court upon the recommendation of the Judicial Qualifications Commission. Other methods for the retirement, removal and discipline of judges can be established by the legislature.

Caseload Overview

Generally, the caseloads of the state's courts are stabilizing. Case filings are at approximately the same level they were in 1979, but below the apex reached in 1980. This stability reflects the state's demographic stability and the end of the rapid economic growth experienced in parts of the state as a result of energy development. Table 1 provides a general caseload overview for the various state courts. A more detailed description for specific courts is provided in other parts of this report.

TABLE 1
CASELOAD OVERVIEW OF NORTH DAKOTA COURTS
FOR 1982 AND 1983

Level of Court	Filings		Dispositions		Pending at Year's End	
	1983	1982	1983	1982	1983	1982
Supreme Court	310	308	304	310	158	152
District Courts	16,062	16,244	15,993	15,557	6,508	6,439
County Courts	100,583	98,220	100,037	96,803	19,276	18,730
Municipal Courts	55,371	54,032	55,371	54,032	—	—
TOTAL	**172,326**	**168,804**	**171,705**	**166,702**	**25,942**	**25,321**

Supreme Court of North Dakota

Left to right: Justice H.F. Gierke III; Justice Vernon R. Pederson; Chief Justice Ralph J. Erickstad; Justice Paul M. Sand; and Justice Gerald W. VandeWalle.

The North Dakota Supreme Court has five justices. Each justice is elected for a ten-year term in a nonpartisan election. The terms of the justices are staggered so that only one judgeship is scheduled for election every two years. Each justice must be a licensed attorney and a citizen of the United States and North Dakota.

One member of the supreme court is selected as chief justice by the justices of the supreme court and the district court judges. The chief justice's term is for five years or until his elected term on the court expires. The chief justice's duties include presiding over supreme court conferences, representing the judiciary at official state functions, and serving as the administrative head of the judicial system.

The North Dakota Supreme Court is the highest court for the State of North Dakota. It has two major types of responsibilities: (1) adjudicative and (2) administrative.

In its adjudicative capacity, the supreme court is primarily an appellate court with jurisdiction to hear appeals from decisions of the district courts and the county courts with increased jurisdiction. All appeals from these courts must be accepted for review by the court. In addition, the court also has original jurisdiction authority and can issue such original and remedial writs as are necessary to exercise this authority.

The state constitution requires that a quorum, composed of a majority of the justices, is necessary before the court can conduct its judicial business. It also stipulates that the court cannot declare a legislative enactment unconstitutional unless four of the justices so decide. When the court decides an appeal, it is required to issue an opinion stating the rationale for its decision. Any justice disagreeing with the majority decision may issue a dissenting opinion which explains the reasons for the disagreement with the majority.

In its administrative capacity, the supreme court has major responsibilities for ensuring the efficient and effective operation of all nonfederal courts in the state, for maintaining high standards of judicial conduct, for supervising the legal profession, and for promulgating procedural rules which allow for the orderly and efficient transaction of judicial business. Within each area of administrative responsibility, the court has general rulemaking authority.

The court carries out its administrative responsibilities with the assistance of various committees and boards. It exercises its authority to admit and license attorneys through the State Bar Board. Its supervision of legal ethics is exercised through the Disciplinary Board of the Supreme Court and its supervision of judicial conduct is exercised through the Judicial Qualifications Commission. Continuing review and study of specific subject areas within its administrative jurisdiction is provided through four advisory committees-the Joint Preocedure Committee, the Attorney Standards Committee, the Judiciary Standards Committee and the Court Services Administration Committee. Other committees, such as the Judicial Planning Committee and the Special Committee on Judicial Training, also provide valuable assistance to the supreme court in important administrative areas.

Administrative personnel of the supreme court also play a vital role in helping the court fulfill its administrative functions. The clerk of the supreme court supervises the calendaring and assignment of cases, oversees the distribution and publication of supreme court opinions and administrative rules and orders, and decides certain procedural motions filed with the court. The state court administrator assists the court in the preparation of the judicial budget, prepares statistical reports on the workload of the state's courts, provides for judicial educational services, and performs such other administrative duties that are assigned to him by the supreme court. The state law librarian supervises the operation of the state law library and serves as bailiff of the court when the court is in session.

The Workload of the Supreme Court

by Luella Dunn, Clerk of the Supreme Court

What constitutes a tolerable caseload for a five-member court? That question is being pondered by many court organizations and legislative committees in the nation. During calendar year 1983 there was a total of 462 cases on the North Dakota Supreme Court's docket. That compares with a total of 289 cases in 1978 just five years ago.

New case filings increased only slightly from 1982. Civil case filings in 1983 increased 8.8% but criminal cases filed dropped 18.5% from the 1982 level.

TABLE 2
CASELOAD SYNOPSIS OF THE SUPREME COURT FOR 1982 AND 1983

	1983	1982	Percent Difference
New Filings	**310**	**308**	6
Civil	235	216	8 8
Criminal	75	92	-18 5
Filings Carried over from Previous Calendar Year	**152**	**154**	-1 3
Civil	118	118	0 0
Criminal	34	36	-5 6
Total Cases Docketed	**462**	**462**	0 0
Civil	353	334	5 7
Criminal	109	128	-14 8
Dispositions	**304**	**310**	-1 9
Civil	231	216	6 9
Criminal	73	94	-22 3
Cases Pending as of December 31	**158**	**152**	3 9
Civil	122	118	3 4
Criminal	36	34	5 9

A total of 304 cases were disposed of by the Court in 1983. Of this number, 231 were civil cases and 73 were criminal.

The North Dakota Constitution, Article VI, Section 5, provides that the Supreme Court must file decisions in all cases stating in writing the reasons for the disposition. Written opinions were rendered by the Court in 241 cases. Added to this number were 43 dissenting or concurring opinions filed. The average length of each decision was 13 pages.

The Supreme Court affirmed the trial court in 96 civil appeals and 36 criminal appeals. The Court directed reversal, reversal with modification, or reversal and remand in 47 civil appeals and 11 criminal appeals. Ten civil appeals and four criminal were dismissed by opinion. Dismissals by order were entered in 52 cases. Three cases involved judicial or professional disciplinary issues.

TABLE 3
DISPOSITIONS — 1983

	Civil	Criminal
BY OPINION		
Affirmed, Modified and Affirmed	96	36
Reversed, Reversed and Remanded, Reversed and Modified	47	11
Affirmed in Part and Reversed in Part	19	6
Remanded	2	1
Certified Questions of law	1	1
Dismissed	10	4
Application for Admission Granted	1	—
Application for Admission Denied	1	—
Original Jurisdiction — Granted	2	—
Original Jurisdiction — Denied	3	—
Dispositions by Opinion	182	59
BY ORDER		
Dismissed	40	12
Discipline Imposed	3	—
Original Jurisdiction — Granted	1	—
Original Jurisdiction — Denied	5	2
Dispositions by Order	49	14
Total Dispositions for 1983	231	73

Of the numerous miscellaneous administrative matters considered, the full Court acted on 136 procedural motions, the administrative judge (Chief Justice or Acting Chief Justice) ruled on 125, and the Clerk under authority granted by the Supreme Court decided 237 of these motions.

When the fall term started in September, decisions had been rendered in all cases that had been submitted to the Court. This marked the tenth year the members of the Court were able to clear the docket despite the increase in caseload in the last decade from approximately 110 appeals to a total of 462 appeals.

TABLE 4 COMPARISON OF THE TIME PRESCRIBED IN THE RULES FOR PERFECTING AN APPEAL AND THE ACTUAL TIME USED (IN DAYS)

	Prescribed by Rules		Average Actual Time 1981		Average Actual Time 1982		Average Actual Time 1983	
	Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal
From filing Entry of Judgment to filing Notice of Appeal	60	10	40	12	43	10	43	12
From filing Notice of Appeal to filing of Complete Record	50	50	39	45	45	53	47	54
From filing of Complete Record to filing Appellant's Briefs	40	40	48	46	46	49	44	53
From filing Appellant's Briefs to filing Appellee's Briefs	30	30	34	31	33	40	32	35
From At Issue (case ready for calendaring) to Hearing	N/A	N/A	52	47	46	46	48	45
From Hearing to Decision	N/A	N/A	46	36	51	45	52	50

Records show only a slight increase in the average actual time from hearing to decision by the Court in the last few years. Civil cases in 1983 were decided by the Court in an average of 52 days from hearing to decision compared with 51 in 1982. Likewise, criminal case decision time averaged 50 days in 1983 compared with 45 days in 1982. Other time frames for filings varied only slightly from previous years.

The justices of the Supreme Court spent 67 days in Court hearing oral arguments in 255 cases during 1983.

The Honorable H.F. "Sparky" Gierke was appointed to fill the vacancy created by the resignation of Justice Wm. L. Paulson. Justice Gierke assumed office October 1, 1983. Justice Paulson had served on the Court since January, 1967.

District Courts

There is a district court in each of the state's fifty-three counties. They have original and general jurisdiction in all cases except as otherwise provided by law. They have the authority to issue original and remedial writs. They have exclusive jurisdiction in criminal felony cases and have concurrent original jurisdiction with the county courts in all criminal misdemeanor cases.

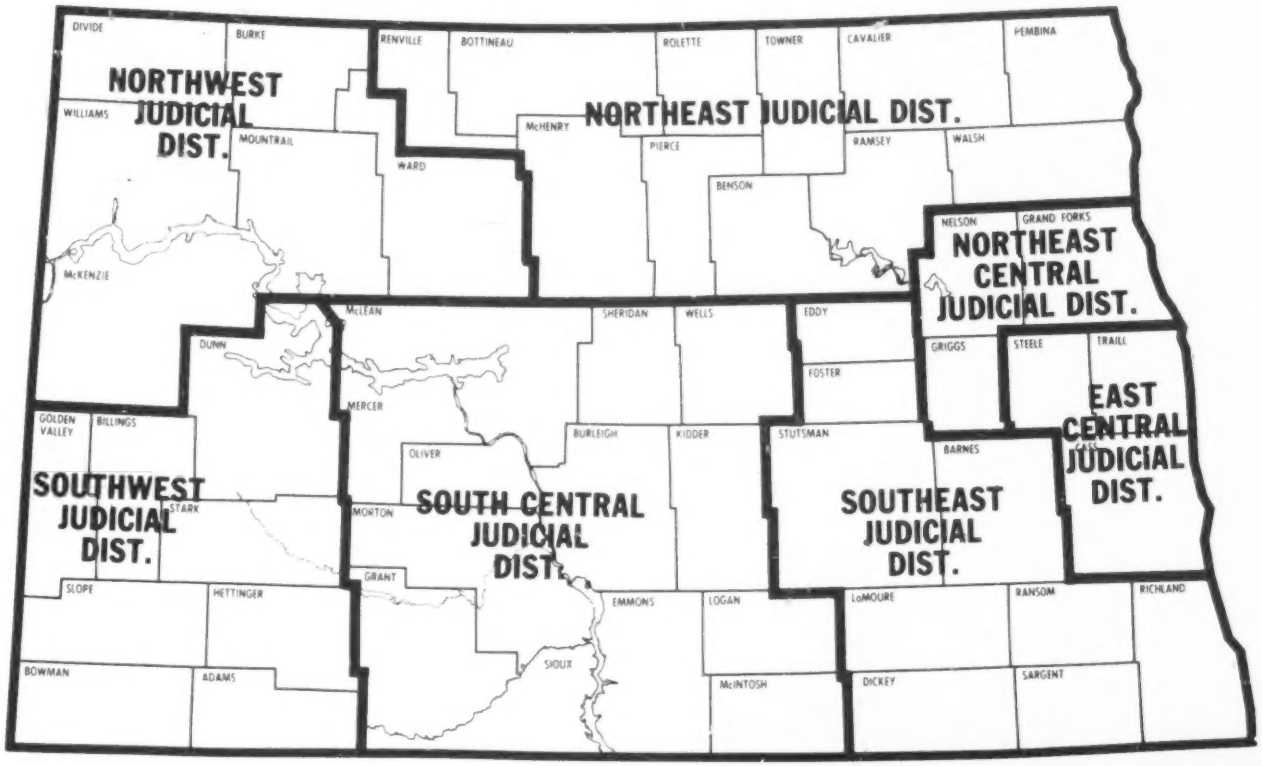
The district courts also serve as the juvenile courts in the state. Under Chapter 27-20, NDCC, which enacted the Uniform Juvenile Court Act, the juvenile court has exclusive and original jurisdiction over any minor who is alleged to be unruly, delinquent, or deprived. This jurisdiction was expanded in 1981 when the Legislature adopted legislation granting the juvenile court jurisdiction over all cases where a female minor is seeking judicial authorization to obtain an abortion without parental consent. District court judges serve as the designated judges of juvenile court. They may appoint juvenile supervisors, referees, probation officers, and other support personnel to assist them in their juvenile court functions.

In addition, the district courts are also the appellate courts of first instance for appeals from the decisions of many administrative agencies. Acting in this appellate capacity, they do not conduct a retrial of the case. Their decisions are based on a review of the record of the administrative proceeding conducted by the administrative agency under review.

In 1979 the supreme court divided the state into seven judicial districts. In each judicial district there is a presiding judge who acts as the chief judicial administrator for the district. All presiding judges are appointed by the chief justice with the approval of the supreme court. The duties of the presiding judge, as established by the supreme court, include convening regular meetings of the judges within the judicial district to discuss issues of common concern, assigning cases among the judges of the district, and assigning judges within the judicial district in cases of demand for change of judge.

With the addition of two new judgeships in 1981, there are now twenty-six district judges in the state. The South Central Judicial District and the Northwest Judicial District each have five judges, the East Central Judicial District has four judges, and each of the remaining four judicial districts has three district judges. All district court judges are required by the state constitution to be licensed North Dakota attorneys, and citizens of the United States and North Dakota.

FIGURE 2
NORTH DAKOTA'S JUDICIAL DISTRICTS



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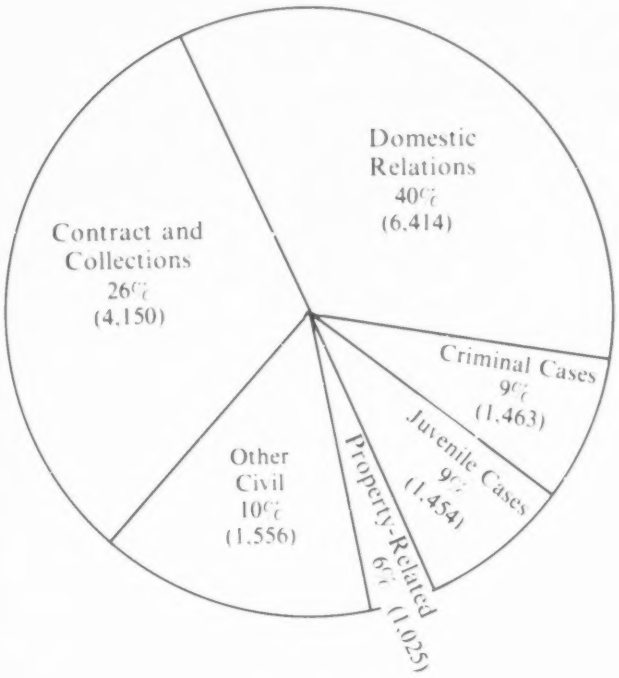
District Court Caseload

The district court caseload has three major components: 1) civil; 2) criminal; and 3) juvenile. Of these components, the civil component is by far the largest. Nearly 82 percent of all cases filed in the district courts in 1983 were civil cases. The remaining caseload was equally split between criminal cases (9%) and formal juvenile cases (9%). A more complete breakdown of the various types of cases filed in the district courts is provided in Figure 3. This breakdown is very similar to the breakdown for every year since 1980.

FIGURE 3
TYPES OF CASES FILED IN THE DISTRICT COURT DURING 1983



Within the civil caseload component, domestic relations cases are the most abundant. In 1983 they constituted approximately 49 percent of all civil filings. The most numerous types of domestic relations cases filed with the district courts are divorce cases and child support cases. Over 44 percent of the domestic relations filings were child support cases and 42 percent were divorce cases. The remaining domestic relations cases included adoption cases (7%), paternity cases (5%), adult abuse (2%), and custody cases (1%).

Contract and collection cases also constituted a large portion of the district courts' civil caseload. However, their proportion of the district courts' docket in 1983 was slightly smaller than it has been in previous years. They comprised nearly 26 percent of all filings and 32 percent of civil filings in 1983, compared to 32 percent of all filings and 38 percent of all civil filings in 1982.

Of the criminal cases, 96 percent of them were felony cases and 4 percent were misdemeanor cases. Most misdemanor cases are processed by the county courts.

For the first time in at least a decade, the district court caseload declined in 1983. Moderate increases in criminal and juvenile filings were not enough to offset the small decrease in the number of civil filings. The slight decline in the district courts' caseload reflects the stabilization of energy development in the western part of the state. In previous years most of the judicial districts, except the Southwest and Northwest, have experienced little or no caseload growth. Much of the growth that occurred in previous years had been due to the demographic and economic changes accompanying energy development in the western areas of the state. Now that energy development has leveled off, the caseloads in the western parts of the state tend to reflect the same pattern of stability common to the other areas of the state.

Despite the decline in case filings, judicial productivity continued to increase in 1983. District court judges disposed of nearly 3 percent more cases in 1983 than in 1982. On the average, each district court judge was responsible for the disposition of 615 cases in 1983.

Although dispositions increased in 1983, they were still slightly below the number of new cases filed. With more cases coming into the district courts than being disposed of in 1983, the result was that the number of cases pending at the end of the year also increased again. A synopsis of how the 1982 and 1983 district courts' caseloads differed is provided below.

TABLE 5

THE DISTRICT COURTS' CASELOADS FOR CALENDAR YEARS 1982 AND 1983

	1983	1982	Percent Difference
New Filings	**16,062**	**16,244**	**-1.1**
Civil	13,145	13,595	-3.3
Criminal	1,454	1,334	9.0
Juvenile	1,463*	1,315*	11.3
Cases Carried Over From Previous Year	**6,439**	**5,752**	**11.9**
Civil	6,065	5,454	11.2
Criminal	374	298	25.5
Juvenile	0	0	0
Total Cases Docketed	**22,501**	**21,996**	**2.3**
Civil	19,210	19,049	.8
Criminal	1,828	1,632	12.0
Juvenile	1,463	1,315	11.3
Dispositions	**15,393**	**15,557**	**-1.1**
Civil	13,059	12,984	.6
Criminal	1,471	1,258	16.9
Juvenile	1,463	1,315	13.3
Cases Pending as of December 31	**6,508**	**6,439**	**1.1**
Civil	6,151	6,065	1.4
Criminal	357	374	-4.5
Juvenile	0	0	0

**Because separate data on juvenile filings are not collected, juvenile dispositions have been used as an indicator of juvenile filings. Since juvenile cases are disposed of rapidly, any discrepancy between filings and dispositions is very small.*

Civil Caseload

Overall, the number of civil cases filed in the district courts decreased by 3 percent in 1983. This decrease broke a steady trend of rising civil cases which had characterized civil filings in previous years. Only the Northwest Judicial District recorded increases in civil filings during 1983. Part of the decrease in civil filings may reflect the expansion of the civil jurisdiction of the new county courts which became operational in 1983.

The most dramatic decline in civil filings in 1983 occurred with contract and collection cases. They decreased about 19 percent. Miscellaneous civil cases also experienced a substantial decrease, dropping over 17 percent from the civil filings for 1982. In contrast, property related cases exhibited the largest increase for civil filings. They rose from 494 filings in 1982 to 1,025 in 1983, an increase of 107 percent. This precipitous rise was due primarily to the 111 percent increase in foreclosure cases in 1983. Apparently, hard interest rates and a sluggish economy took their toll on many North Dakota farmers, businesses and homeowners during 1983.

Domestic relations cases also increased moderately (5%) during 1983. Most of this increase occurred with child support cases. In fact, 1983 is the first year that child support cases have outnumbered divorce cases. While child support cases have generally been on the rise since 1976, divorce cases have been declining in recent years. This decline may reflect societal adjustment to the new career roles women have assumed as well as more stable social mores. Adoption and other types of domestic relations filings changed very little in 1983.

In contrast to civil filings, civil dispositions continued to increase in 1983. Four of the seven districts, however, had fewer dispositions in 1983 than in 1982. The largest increase in dispositions occurred in the Southwest Judicial District, reflecting the attempt of judges in this district to keep pace with the tremendous caseload increases experienced in previous years.

Most civil cases in 1983, as in previous years, were uncontested and did not involve a trial. Trials disposed of only 20 percent of all civil dispositions in 1983. Of the trials, 97 percent of them were court trials and 3 percent were jury trials. The jury trials were about evenly split between six-person jury trials (36) and twelve-person jury trials (39). But while trials account for only a portion of all dispositions, they usually require much more judicial time than cases disposed of without trials. Thus, it is particularly noteworthy that while civil dispositions on the whole increased by less than 1 percent in 1983, civil dispositions by trial increased by over 37 percent.

The number of cases pending at the end of the calendar year also increased slightly in 1983. Although judicial productivity increased in 1983, it was still not able to keep pace with the new civil filings in 1983. This seems due in part to the greater number of cases going to trial and more complex lawsuits which require a longer period for processing.

Perhaps the best indication of how well the district courts are coping with their civil cases is their compliance with the docket currency or time processing standards established by the supreme court. These standards require disposition of civil cases within 24 months of filing and within 90 days of a concluded trial. Certain types of civil cases, such as trust cases and support proceedings, are exempt from these standards because the time required to process them is unusually long and often unpredictable. The standards can be waivered in specific cases by the presiding judge of the judicial district or the chief justice if a district judge can demonstrate good cause for the waiver.

Only 4 percent of the pending civil cases exceeded the time limits established by the docket currency standards at year's end in 1983. This compares with 3 percent in 1982 and 5 percent in 1981. These statistics reflect a concentrated effort by district court judges to keep their calendars current.

FIGURE 4

CIVIL CASELOAD COMPARISON FOR DISTRICT COURT

Criminal Caseload

The way in which criminal cases are counted and reported varies from state to state. In North Dakota the criminal case statistics are reported and counted on an individual case basis rather than an individual defendant bases. As a result, if multiple defendants are listed together under one case heading, the matter is counted as one case unless the trial court decides to separate the defendants and try them separately.

Prosecutions of most criminal defendants in North Dakota begin with the filing of a criminal information by the state's attorney. Although indictment by grand jury is permitted, it is rarely used. The preliminary hearings in felony cases are conducted by county court judges. If the defendant is not released after the preliminary hearing, he is then bound over to the district court for trial.

Criminal filings increased by 9 percent and criminal dispositions by nearly 17 percent in 1983. Six of the seven judicial districts recorded increases in criminal filings, ranging from 1 percent to 25 percent. Only the Northeast Central Judicial District experienced a decline in criminal filings. All districts, except the East Central Judicial District, also recorded increases in the number of criminal dispositions. Particularly noteworthy was the 48 percent increase in the South Central Judicial District, the 29 percent increase in the Northeast Judicial District, and the 22 percent increase in the Southwest Judicial District. Why criminal cases are on the rise again after tapering off in previous years is not clear. It may reflect the impact of a more depressed economy or a more concentrated effort by law enforcement in apprehending criminals.

Most criminal cases (74%) were disposed of without a trial. Jury trials were held in 67 cases and court trials in 312 cases in 1983. This represents a 7 percent decrease in jury trials and a 33 percent increase in court trials. Increased trial activity for both criminal and civil cases is having a fiscal impact on the district courts' budget during the biennium. Jury expenses rose about 40 percent because of the increased number of trials in 1983. In many districts this has placed a budgetary strain on the district's budget.

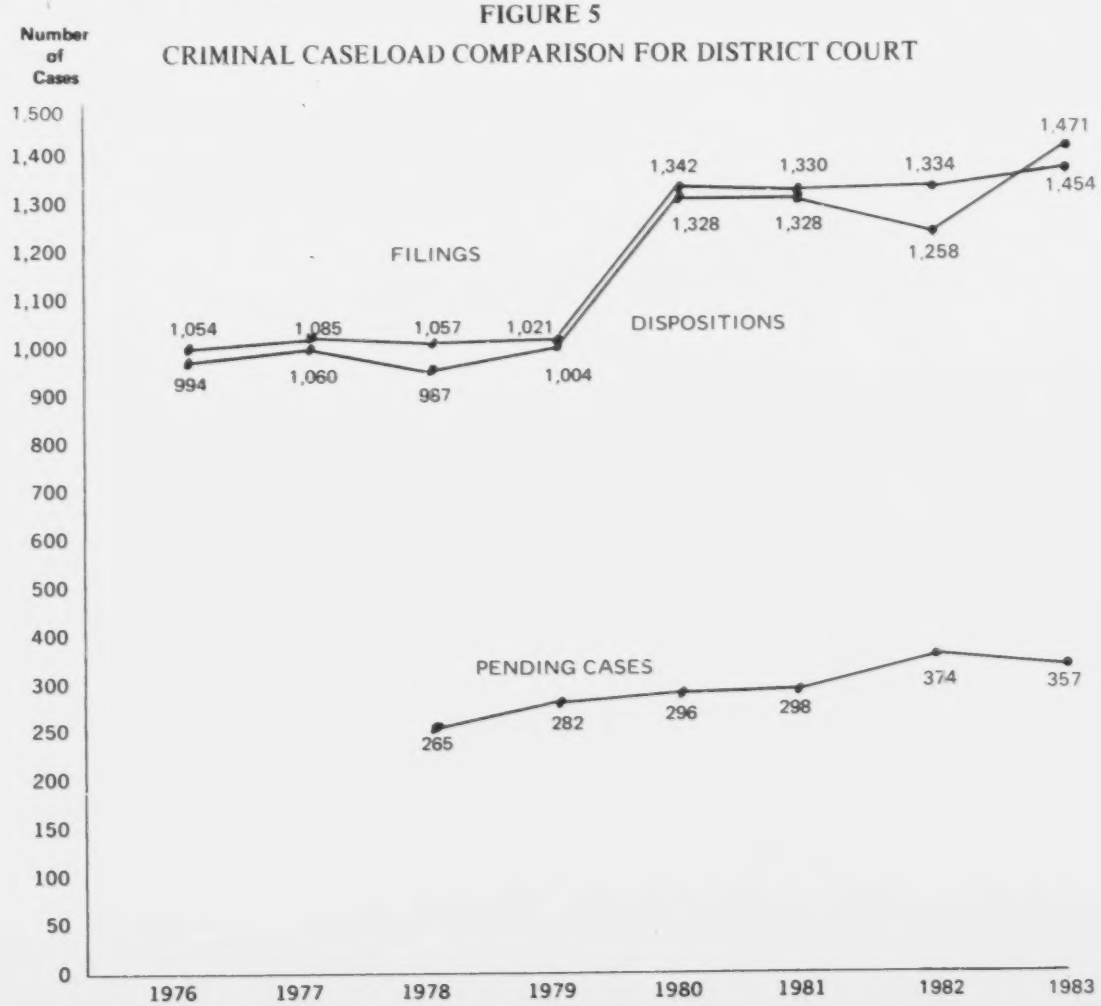
The number of criminal cases pending at the end of the year in 1983 declined slightly. The decrease reflects the fact that criminal dispositions exceeded criminal filings for the first time in at least six years.

As with civil cases, docket currency standards have also been established for criminal cases. These standards stipulate that criminal cases should be decided within 120 days after the filing of the information or indictment in district court. The presiding judge of the district or the chief justice can waive these standards for specific cases if good cause is demonstrated. At the end of 1983 approximately 40 percent of the pending criminal cases failed to meet the 120 day standard set by the docket currency standards. By comparison, 37 percent of the criminal cases pending at the end of calendar year 1982 were older than 120 days and 28 percent of the criminal cases pending at the end of calendar year 1981 were older than 120 days. Both the increased number of criminal filings and criminal trials account for the greater proportion of pending criminal cases older than 120 days in 1983.

Figure 5 presents a graph showing the various trends since 1976 for criminal filings, dispositions, and pending cases.

FIGURE 5

CRIMINAL CASELOAD COMPARISON FOR DISTRICT COURT



Juvenile Caseload

The vast majority of juvenile cases are handled informally. However, before any juvenile case can be adjudicated informally, the juvenile must admit to the charge. If there is no voluntary admission to the offense, then the case is handled formally. With formal action, a petition is filed in the district court and a formal hearing is held within thirty days of the filing of the petition unless the district judge grants a request for an extension. Formal proceedings have priority over informal proceedings.

Of the informal proceedings conducted in 1983, approximately 39 percent were disposed of by counseling the juvenile and adjusting the matter with no term of probation. Thus some type of supervision was provided by the juvenile courts in 61 percent of the informal proceedings.

As Figure 6 illustrates, only formal dispositions increased in 1983. Informal dispositions decreased by 3 percent and counsel adjusted dispositions by 5 percent in 1983. However, no judicial district experienced either an increase or decrease in all three juvenile caseload components. Juvenile dispositions continued to fluctuate among judicial districts as well as among the different types of dispositional categories. Despite these vacillations, the overall trend has been a gradual upward movement in juvenile dispositions since 1978.

Table 7 compares the reasons for referral to juvenile court in 1982 and 1983. As in previous years, the illegal possession or purchase of alcoholic beverages continues to be the most common single reason for referral. Although misdemeanor thefts continue to be the most prominent criminal violations for referral, the gap between them and felony thefts was narrowed in 1983 as it was in 1982. Overall, the major reasons for referrals in 1983 have changed little from those recorded in 1982.

FIGURE 6

COMPARISON OF JUVENILE DISPOSITIONS

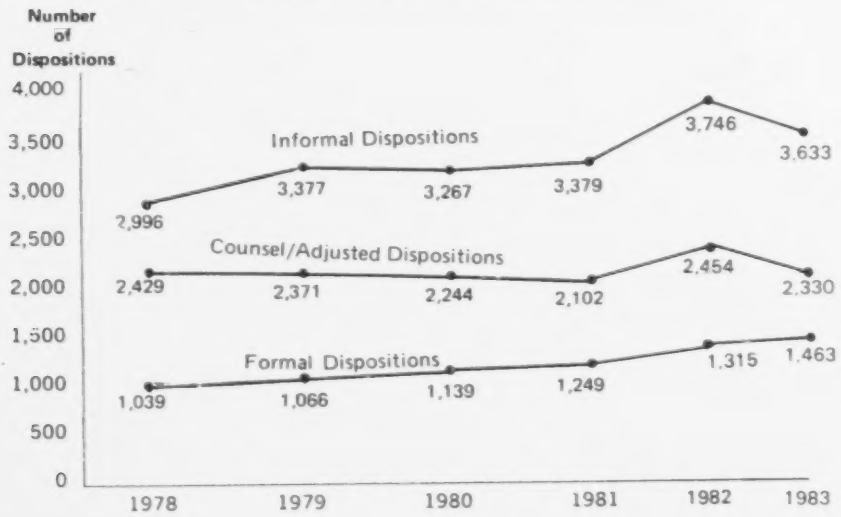


TABLE 6

TYPES OF JUVENILE COURT DISPOSITIONS FOR 1982 AND 1983

Judicial District	Formal 1983	Formal 1982	Informal 1983	Informal 1982	Counsel/ Adjusted 1983	Counsel/ Adjusted 1982	Total Dispositions 1983	Total Dispositions 1982	Percent Difference For Total Dispositions
Northwest	190	122	904	886	237	261	1,331	1,269	4.9
Northeast	203	206	459	429	472	528	1,134	1,163	-2.5
Northeast Central	151	151	410	352	263	258	824	761	8.3
East Central	354	348	438	489	280	241	1,072	1,078	-.6
Southeast	208	176	475	533	279	320	962	1,029	-6.5
South Central	316	280	851	921	595	692	1,762	1,894	-7.0
Southwest	41	32	96	136	204	154	341	322	5.9
TOTAL	1,463	1,315	3,633	3,746	2,330	2,454	7,426	7,516	-1.2

TABLE 7
REASON FOR REFERRAL TO JUVENILE COURT IN 1982 AND 1983

	1983	1982	Percent Difference
UNRULY	**2,503**	**2,664**	**-6.0**
Possession or Purchase of Alcohol Beverage	1,528	1,762	-13.3
Runaway-Instate	272	229	18.8
Runaway-Out-of-State	28	43	-34.9
Truancy	153	123	24.4
Ungovernable Behavior	301	255	18.0
Conduct/Control Violation	52	27	92.6
Curfew Violation	105	139	-24.5
Other	64	86	-25.6
DELINQUENCY	**3,542**	**3,395**	**4.3**
Offense Against Person	**165**	**158**	**4.4**
Assault	85	86	-1.2
Homicide	0	0	0
Kidnapping	2	0	—
Sex Offense	48	37	29.7
Other	30	35	-14.3
Offense Against Property	**3,324**	**2,237**	**3.9**
Arson	8	8	0
Burglary	202	248	-18.5
Criminal Mischief	402	389	3.3
Criminal Trespass	83	76	9.2
Forgery	32	45	-28.9
Robbery	9	7	28.6
Theft-Misdemeanor	766	768	-.3
Theft-Felony	608	490	24.1
Unauthorized Use of Vehicle	114	87	31.0
Other	100	119	-16.0
Traffic Offenses	**503**	**487**	**3.3**
Driving W/o license	410	385	6.5
Negligent Homicide	3	0	—
Other	90	102	-11.8
Other Offenses	**550**	**513**	**7.2**
Disorderly Conduct	209	189	10.6
Firearms	43	36	19.4
Game & Fish Violation	65	54	20.4
Obstruction of Law	17	19	-10.5
Controlled Substance Violation	122	141	-15.6
Other	94	74	27.0
DEPRIVATION	**1,050**	**994**	**5.6**
Abandoned	8	3	166.7
Abuse/Neglect	538	548	-1.8
Deprived	472	420	12.4
Other	32	23	39.1
SPECIAL PROCEEDINGS	**167**	**1,623.1**	
Involuntary Termination of Parental Rights	10	5	100.0
Voluntary Termination of Parental Rights	120	117	2.6
Other	37	40	-7.5
TOTAL	7,262	7,215	.7

Report of the Northwest Judicial District

The Honorable Wallace D. Berning, Presiding Judge

District Court Judges: Wallace D. Berning, Presiding Judge; Jon R. Kerian; Everett N. Olson; William M. Beede; and Bert L. Wilson.

County Court Judges: Gary A. Holum; Gordon C.Thompson; James M. Bekken; and William W. McLees, Jr.

Number of Counties in District: 6

District Court Chambers: Minot and Williston

Court Administration

The assignment of cases through the district continues as it has in the past. District Judges Beede and Wilson are handling the cases in Divide, Williams, and McKenzie Counties; District Judges Berning, Olson, and Kerian are handling the cases in Burke, Mountrail, and Ward Counties. All of the judges, both district and county, have received assignments of varying types throughout the state and district. Their cooperation is appreciated and has helped in the smooth flow and timely disposition of cases.

Indigent defense contracts covering the entire district are either in effect or are being solicited at this time.

The Northwest District has, in conjunction with the law school, completed a study regarding the utilization of law students as clerks for the judges of the Northwest District. The UND Law School, after performing a thorough survey and analysis, has concluded that the program is feasible but there would be a need for monetary compensation of the students. The study indicated that it would not be feasible to award academic credit for law clerk-type services. It is likely a program of this type will be implemented in this district during the next biennium.

Facilities

It is expected that the construction of the new $3,200,000.00 jail in Minot will be completed in the summer of 1984. This jail will meet all of the Attorney General's standards and will give increased flexibility to the functioning of the courts in the criminal and juvenile areas.

It is expected that McKenzie County will start construction of a new jail facility in the spring of 1984. This will significantly increase both the numerical capacity and the quality of incarceration. It is expected that this will meet the Attorney General's criteria for a Class I facility.

With the support of the Minot bar, it is expected that the Ward County Commissioners will embark on a gradual remodeling of the District Courtroom in the Ward County Courthouse. The first step would be renovating the windows and installing air conditioning.

The district courtrooms and chambers in Williston have undergone extensive remodeling. These are now first rate facilities second to none in the state.

During the year, the Court purchased the telephone equipment in the offices at Minot. The new equipment should result in a significant savings on telephone costs.

Security alarms have been installed in the courtrooms and the judges' chambers in Minot. This represents a buzzer system tied into the Sheriff's Office.

Mountrail County has remodeled their jail which will have a capacity for eight prisoners. The Williams County Jail has designated three individual cells equipped with sight and sound for detention of juveniles. This is a significant improvement over the previous areas available for juveniles.

Juvenile Court

The juvenile staff in this district, as in other districts throughout the state, has been beset by financial austerity. In spite of this, the juvenile arm of the court continues to be effective in community programs, crisis intervention, alcohol and drug awareness, etc.

The juvenile office in Williston has participated in a demonstrative project under the direction of the State Human Services Department and the Mountain Plains Coalition. Through this program, they will add seven shelter care facilities for 24 hour emergency placements. The homes will be distributed in Divide, McKenzie, and Williams Counties. The juvenile office in Williams County is also exploring the possibility of an arrangement with the Eckert Foundation for the building and managing of a juvenile detention facility.

The juvenile office in Minot has participated in a program with Dakota Northwestern University wherein a student has been working for the office without costs and for academic credit.

Both juvenile offices in the district are in critical need of additional help. Efforts to remedy this situation will be given priority in the next year.

TABLE 8
NORTHWEST JUDICIAL DISTRICT CASELOADS
FOR CALENDAR YEARS 1982 AND 1983

	1983	1982	Percent Difference
New Filings	**3,031**	**2,882**	**5.2**
Civil	2,542	2,483	2.4
Criminal	299	277	7.9
Juvenile	190	122	55.7
Cases Carried Over From Previous Year	**880**	**775**	**13.6**
Civil	843	737	14.4
Criminal	37	38	-2.6
Juvenile	0	0	0
Total Cases Docketed	**3,911**	**3,657**	**6.9**
Civil	3,385	3,220	5.1
Criminal	336	315	6.7
Juvenile	190	122	55.7
Dispositions	**2,961**	**2,777**	**6.6**
Civil	2,473	2,377	4.0
Criminal	298	278	7.2
Juvenile	190	122	55.7
Cases Pending As of December 31	**950**	**880**	**8.0**
Civil	912	843	8.2
Criminal	38	37	2.7
Juvenile	0	0	0

Report of the Northeast Judicial District

The Honorable Douglas B. Heen, Presiding Judge

District Court Judges: Douglas B. Heen, Presiding Judge; William A. Neumann; and James H. O'Keefe.

County Court Judges: James M. Bekken; Thomas K. Metelmann; A.S. Benson; John C. McClintock; Theodore Weisenburger; and Ronald Dosch.

Number of Counties in the District: 11

District Court Chambers: Devils Lake; Rugby; and Grafton.

Caseflow Management

1983 has continued to bring increased caseloads to the Northeast District. While some adjustments have been made by assignments to new full-time county judges in the District, backlogs continue at unacceptable levels. The possibility of placing a fourth district judge in the District should be considered.

Facilities

Pierce and McHenry Counties have made excellent additions to court facilities by constructing county courtrooms. In addition, McHenry County is pursuing an impressive renovation of its district courtroom.

Facilities in other counties in the District range from excellent to adequate. While the district and county courts share courtroom facilities in some counties, the system seems to be working reasonably well for the time being.

Limited library space continues to be a pressing problem in some counties and chambers. The need for library facilities for some county court chambers is becoming more apparent.

Juvenile Court

The increased caseload in the District has created an added burden for juvenile court personnel. Juvenile referees have had to hear a growing number of the more serious cases once reserved for judges. As workloads increase and the present referees approach retirement age, the necessity to plan for future needs becomes more critical.

Staff

The lack of a juvenile court probation officer at Devils Lake is a critical problem. While part of that probation load has been carried by the State Youth Authority personnel in the past, it appears that this service may be curtailed in the future. Failure to place a juvenile probation officer at Devils Lake at the earliest possible opportunity would almost certainly result in an unacceptable impairment of juvenile court services in the central counties of the District.

Contract Indigent Defense Counsel

After considerable discussion and with some apprehension, the District has embraced the contract system of providing indigent defense counsel. While the new system has been in place only a few months at this point, it seems to be functioning smoothly. It appears that contracting for indigent defense services should bring under control a heretofore uncontrollable expense item.

Summary

With the exception of the immediate need for a juvenile probation officer, administration of the judicial system appears to be more or less satisfactory for the time being. While the future may hold problems with caseloads and personnel changes, it appears the Northeast Judicial District, given support from the rest of the judicial branch, will have an opportunity to plan for and meet those challenges as they arrive.

TABLE 9
NORTHEAST JUDICIAL DISTRICT CASELOADS
FOR CALENDAR YEARS 1982 AND 1983

	1983	1982	Percent Difference
New Filings	**1,621**	**1,781**	**-9.0**
Civil	1,234	1,426	-13.5
Criminal	184	149	23.5
Juvenile	203	206	-1.5
Cases Carried Over From Previous Year	**662**	**525**	**26.1**
Civil	613	488	25.6
Criminal	49	37	32.4
Juvenile	0	0	0
Total Cases Docketed	**2,283**	**2,306**	**-1.0**
Civil	1,847	1,914	-3.5
Criminal	233	186	25.3
Juvenile	203	206	-1.5
Dispositions	**1,585**	**1,644**	**-3.6**
Civil	1,205	1,301	-7.4
Criminal	177	137	29.2
Juvenile	203	206	-1.5
Cases Pending As of December 31	**698**	**662**	**5.4**
Civil	642	613	4.7
Criminal	56	49	14.3
Juvenile	0	0	0

Report of the Northeast Central Judicial District

The Honorable A.C. Bakken, Presiding Judge
Pat Thompson, Court Administrator

District Court Judges: A.C. Bakken, Presiding Judge; Joel D. Medd; and Kirk Smith.

County Court Judges: Frank J. Kosanda; Jonal H. Uglem; and Ronald Dosch.

Number of Counties in District: 3

District Court Chambers: Grand Forks

Caseflow Management

The Northeast Central Judicial District has continued to comply with the docket currency standards. A contributing factor to the disposition of cases for the three counties is the centralized scheduling and assigning of judges and referee through the court administrator's office, together with the cooperation of the clerks' offices.

Advisory Board

Attorney Shirley Dvorak was appointed to fill the vacancy created by the resignation of Grace Melgard who retired from private practice. Other members are Lloyd B. Omdahl, director of the Bureau of Governmental Affairs of the University of North Dakota, and Attorney Damon Anderson. The Board was consulted in the selection of attorneys for the public defender contracts for the 1983-85 biennium.

Two-Year Public Defender Contracts Awarded

The Northeast Central Judicial District changed from one year to two-year contracts in order to coincide with the budget for the 1983-85 biennium. The contracts cover services for the District and Juvenile Courts for Griggs, Nelson and Grand Forks Counties. Contracts were awarded to Attorney Al Larivee and the law firms of Jelliff & Thelan, Olson & Engen, and Spaeth & Schubert. The firms are paid specific fees monthly for their services, regardless of the caseload, which facilitates preparation of the budget.

Law Clerks

Continued cooperation with the University of North Dakota School of Law enables each district judge to have the assistance of a student law clerk. The law school gives students three credit hours for performing 10 hours of law clerk duties each week during a regular semester and two credit hours during the summer.

Juvenile Court

The Practicum Program in conjunction with the University of North Dakota Department of Social Work and the Masters Program in Counselling and Guidance is in its 10th year under the supervision of Juvenile Court staff. This program has allowed approximately 50 students in those fields to gain practical experience in Juvenile Court functions and dealing with problem youth.

During 1983, the Juvenile Court ordered restitution payments in the sum of $3,448.36 of which $3,190.86 had been collected.

Facilities

In April, 1983, the Board of County Commissioners adopted a proposal by the District Court to establish a Facilities Planning Committee. The purpose of the committee is to study and make recommendations regarding current and future building facility requirements of the county.

Elected officials and department heads were requested to submit their views as to the current and future needs for county personnel and office facilities. The committee continues to meet on a regular schedule.

TABLE 10
NORTHEAST CENTRAL JUDICIAL DISTRICT
CASELOADS FOR CALENDAR YEARS
1982 AND 1983

	1983	1982	Percent Difference
New Filings	**1,911**	**1,816**	**5.2**
Civil	1,671	1,552	7.7
Criminal	89	113	-21.2
Juvenile	151	151	0
Cases Carried Over From Previous Year	**727**	**587**	**23.9**
Civil	694	566	22.6
Criminal	33	21	57.1
Juvenile	0	0	0
Total Cases Docketed	**2,638**	**2,403**	**9.8**
Civil	2,365	2,118	11.7
Criminal	122	134	-9.0
Juvenile	151	151	0
Dispositions	**1,834**	**1,676**	**9.4**
Civil	1,577	1,424	10.7
Criminal	106	101	5.0
Juvenile	151	151	0
Cases Pending As of December 31	**804**	**727**	**10.6**
Civil	788	694	13.5
Criminal	16	33	-51.5
Juvenile	0	0	0

Report of the East Central Judicial District

The Honorable Norman J. Backes, Presiding Judge
Richard Sletten, Court Administrator

District Court Judges: Norman J. Backes, Presiding Judge; John O. Garaas; Lawrence Leclerc; and Michael O. McGuire.

County Court Judges: Donald J. Cooke; Cynthia A. Rothe; and Jonal Uglem.

Number of Counties in District: 3

District Court Chambers: Fargo

Public Defender System

In 1983 the District entered into contracts for indigent defense counsel services for the entire District. The District has been using contracted public defender services since 1979 in Cass County, but this year is the first time contracted services have been used District wide.

Because of perceived problems in the past with the bidding process and the system used for conflict of interest attorneys, the District took a new approach to contracting for indigent defense services. Rather than asking for bids, the District set a price for services and asked for applications for the position. The Judges reviewed the applications and then selected five individuals as public defenders. Each individual is under separate contract for the 1983-1985 biennium. Four individuals were selected to provide services in Cass County, and one was selected to provide services in Traill and Steele Counties.

Case Flow Management

The statistics for calendar year 1983 indicate there was a slight decrease in the total number of filings in the District. However, the judges disposed of more civil and criminal cases than were filed. The average of 695 dispositions per judge for civil and criminal cases was the highest in the State.

Even though there was a decrease in filing, trial activity increased by 61 percent. There were 21 trials in 1982 compared to 34 trials in 1983. A 142% increase in criminal trials, from 7 trials in 1982 to 17 trials, account for much of the rise in trial activity during 1983.

Community Involvement

Many local high schools and junior high school classes attended court sessions this year. In a continuing effort, the local law enforcement agencies have arranged for interested groups to tour the jail, visit the clerk of court's office, visit with the judges, and view trials. The judges also participated in moot court and the trial advocacy program at the University of North Dakota.

Advisory Committee

William Yuill, Lee Hagen, Ken Olson were new appointees to the Advisory Committee this year. The Board met several times this year, mainly providing input for the reorganization of public defender services in the District. The Committee also met to review the revised local rules, which are to be implemented in 1984.

TABLE 11
EAST CENTRAL JUDICIAL DISTRICT CASELOADS FOR CALENDAR YEARS 1982 AND 1983

	1983	1982	Percent Difference
New Filings	**3,074**	**3,143**	**-2.2**
Civil	2,502	2,579	-3.0
Criminal	218	216	.9
Juvenile	354	348	1.7
Cases Carried Over From Previous Year	**1,444**	**1,480**	**-2.4**
Civil	1,384	1,398	-1.0
Criminal	60	82	-26.8
Juvenile	0	0	0
Total Cases Docketed	**4,518**	**4,623**	**-2.3**
Civil	3,886	3,977	-2.3
Criminal	378	298	-6.7
Juvenile	354	348	1.7
Dispositions	**3,136**	**3,179**	**-1.4**
Civil	2,564	2,593	-1.1
Criminal	218	238	-8.4
Juvenile	354	348	1.7
Cases Pending As of December 31	**1,382**	**1,444**	**-4.3**
Civil	1,322	1,384	-4.5
Criminal	160	60	0
Juvenile	0	0	0

Report of the Southeast Judicial District

The Honorable Robert L. Eckert, Presiding Judge

District Court Judges: Robert L. Eckert, Presiding Judge; Gordon O. Hoberg; and John T. Paulson.

County Court Judges: James M. Bekken; C. James Cieminski; Harold B. Herseth; Bayard Lewis; Gary D. Neuharth; and Lowell O. Tjon.

Number of Counties in District: 9

District Court Chambers: Wahpeton; Jamestown; and Valley City

New District Court Judge

Gordon Hoberg of Napoleon, North Dakota, was selected by Governor Allen Olson to succeed the Honorable M.C. Fredricks who resigned effective March 18, 1983. Judge Fredricks had been district court judge with chambers in Jamestown since 1960. Judge Hoberg took office on July 1, 1983. Judge Hoberg had practiced law in Napoleon, North Dakota since 1958 and was a long-time state's attorney for Logan County. Present at Judge Hoberg's investiture were Chief Justice Ralph Erickstad, other members of the Supreme Court, Attorney General Robert Wefald and Judge Douglas Heen, Chairman of the Council of Presiding Judges.

Annual Meeting of the Southeast Judicial District Bar Association

The fourth meeting of the Southeast Judicial District Bar Association was held in Wahpeton, North Dakota in May, 1983. Presiding at the meeting was President Warren Stokes of Wahpeton, North Dakota. A meeting of all of the county and district judges in the district was also held in conjunction with the bar association meeting. The state employees, including court reporters and juvenile officials, held a separate meeting with Ted Gladden of the Court Administrator's office to discuss new personnel procedures.

The fifth annual meeting of the Bar Association will be held in Carrington, North Dakota on April 27 and 28, 1984. The annual meeting will be preceded by a meeting of the state employees with William Bohn, State Court Administrator. The Advisory Committee on Local Court Rules will be meeting to prepare a plan for the next biennium. The district and county judges will also meet to discuss matters of common concern and to make recommendations for the improvement of court services within the judicial district.

Assignment of Cases

Cases from Richland, Ransom, and Sargent Counties which are tried to the court without a jury continue to be assigned to Judge Eckert. Cases arising in Eddy, Foster and Stutsman Counties which are to be tried to the court without a jury have been assigned to Judge Hoberg. Cases from Barnes, LaMoure and Dickey Counties which are to be tried to the court without a jury continue to be assigned to Judge Paulson.

Clerks of court have been ordered to immediately notify the district court of the filing of any bindover papers so that criminal arraignments and criminal trials can be held as soon as possible. The district judges continue to alternate civil jury terms in each county within the district.

TABLE 12
SOUTHEAST JUDICIAL DISTRICT CASELOADS FOR CALENDAR YEARS 1982 AND 1983

	1983	1982	Percent Difference
New Filings	**1,779**	**1,861**	**-4.4**
Civil	1,453	1,571	-7.5
Criminal	118	114	3.5
Juvenile	208	176	18.2
Cases Carried Over From Previous Year	**666**	**687**	**-3.1**
Civil	611	633	-3.5
Criminal	55	54	1.9
Juvenile	0	0	0
Total Cases Docketed	**2,445**	**2,548**	**-4.0**
Civil	2,064	2,204	-6.4
Criminal	173	168	3.0
Juvenile	208	176	18.2
Dispositions	**1,773**	**1,882**	**-5.8**
Civil	1,439	1,593	-9.7
Criminal	126	113	11.5
Juvenile	208	176	18.2
Cases Pending As of December 31	**672**	**666**	**.9**
Civil	625	611	2.3
Criminal	47	55	-14.5
Juvenile	0	0	0

Report of the South Central Judicial District

The Honorable Benny A. Graff, Presiding Judge
Ted Gladden, Court Administrator

District Court Judges: Benny A. Graff, Presiding Judge; Gerald G. Glaser; Larry M. Hatch; William F. Hodny; and Dennis A. Schneider.

County Court Judges: Burt L. Riskedahl; Lester J. Schirado; James M. Bekken; Donavin L. Grenz; and O.A. Schulz.

Number of Counties in District: 13

District Court Chambers: Bismarck; Mandan; and Linton

Court Administration

The first trial court administrative position in the state was established in the old Fourth Judicial District that evolved into the South Central Judicial District. This position was created in 1975. Through the direction of Dee J. Hanson and the support of the judges, the concept of professional administrative personnel to assist the administration of the trial judges of the district has taken root. Centralized calendaring, improved records management procedures, and efficient jury management procedures are now a reality.

The South Central Judicial District is the only district providing centralized calendaring services for five judges in three chambered cities. Through the able assistance of Barbara Huesers, Administrative Secretary and Diana Pfeifle, Calendar Clerk, the Court Administrator's office remains the hub of the scheduling process. Centralized calendaring is no longer experimental and is widely accepted by the attorneys of the district.

In April the district purchased a Digital PDP 11 23 Plus Computer. The first software delivery was word processing. By mid summer our administrative staff were proficient with the word processing applications. By early fall we installed and tested the data processing software. In October we were able to generate our notices of trial by computer, saving Diana Pfeifle valuable time in the process.

During November and December the communications link between our office and the state computer was tested. By the end of January 1984, case data will be transmitted to the Capitol on a daily basis. This transmission supports the state statistical reporting and case status monitoring systems. Through our application we have been able to integrate state and trial court case reporting needs in one operational system.

Juvenile Court

The South Central District is the first multi-chambered district to unify administration of the juvenile court under one individual. It has a director of juvenile court services who supervises personnel, sets administration procedures, and interprets policy for the entire juvenile court.

The family law caseload of the juvenile court continues to increase. This increase has prompted a review of the juvenile court staffing and facility needs within the district.

Clerk of Court

The record keeping procedures in the district court clerks offices were reviewed during 1983. The objective of the review was to develop standard procedures for the creation and maintenance of the case file and Register of Actions. By the end of the year the new procedures were approved for district wide implementation in February, 1984. The District Court Administrator will work with judges of the county court to implement the same procedures. This step will further unify our courts.

Judicial Facilities

The lack of judicial space in the Burleigh County Courthouse is reaching crisis proportions. With only one jury courtroom available for district court cases, the district is facing an increasing problem of being able to conduct trials in a timely fashion. There is also a shortage of attorney/client space, chamber space, jury deliberation rooms, and adequate space for juvenile court services.

The special committee of the Burleigh County Bar Association, chaired by Leonard Bucklin of Bismarck, is actively working in support of a 3rd floor addition for the judiciary. In April, 1984 a bond issue for the court expansion and jail addition will go to the voters. If the issue is not passed, our judicial space problems will continue to become more aggravated.

Future Developments

In 1984 we will be looking at the feasibility of consolidating the Mandan and Bismarck Juvenile Court offices. If this is the course taken, we are hopeful of expanding our computer system to the juvenile court. Many of their calendaring and record keeping procedures lend themselves to automation.

Our Court Administrator will be working with the clerks of court to further unify record keeping procedures in the summons process for jury service in the rural counties of the district and the feasibility of the one day or one trial jury service concept for the district.

With limited funds we had to delay the employing of a full-time law clerk until, hopefully, the summer of 1984. With the addition of a law clerk we will be able to maximize our judges time on complex litigation and assign routine research questions to staff. This step may help to reduce slightly the processing time of our caseload.

TABLE 13
SOUTH CENTRAL JUDICIAL DISTRICT
CASELOAD FOR CALENDAR YEARS 1982 AND 1983

	1983	1982	Percent Difference
New Filings	**3,260**	**3,343**	**-2.5**
Civil	2,547	2,747	-7.3
Criminal	397	316	25.6
Juvenile	316	280	12.9
Cases Carried Over From Previous Year	**1,480**	**1,304**	**13.5**
Civil	1,379	1,258	9.6
Criminal	101	46	119.6
Juvenile	0	0	0
Total Cases Docketed	**4,740**	**4,647**	**2.0**
Civil	3,926	4,005	-2.0
Criminal	498	362	37.6
Juvenile	316	280	12.9
Dispositions	**3,298**	**3,167**	**4.1**
Civil	2,595	2,626	-1.2
Criminal	387	261	48.3
Juvenile	316	280	12.9
Cases Pending As of December 31	**1,442**	**1,480**	**-2.6**
Civil	1,331	1,379	-3.5
Criminal	111	101	9.9
Juvenile	0	0	0

Report of the Southwest Judicial District

The Honorable Maurice R. Hunke, Presiding Judge
Ardean Ouellette, Court Administrator

District Court Judges: Maurice R. Hunke, Presiding Judge; Allan L. Schmalenberger; and Lyle C. Stuart.

County Court Judges: Tom Beyer; Donald L. Jorgenson; and F. Gene Gruber.

Number of Counties in District: 8

District Court Chambers: Dickinson and Hettinger

Caseload

As predicted in last year's report to the Judicial Council, new case filings in the Southwest District for the year 1983 have finally stabilized at the record high levels set in 1982. With the new personnel added to the district in recent years and the new courtroom facilities added in three of the eight counties of the district, we were able to remain completely current with criminal cases during 1983. At the end of the year we still had a small backlog of pending civil cases, but we have made steady progress toward meeting the docket currency standards applicable to civil cases.

Comparing the two district judgeships chambered at Dickinson with the one at Hettinger, we continued to encounter a considerable disparity in judicial workload and productivity for a variety of reasons, including geographical distance from the vast majority of cases filed in Stark County. The court administrator will be addressing those problems during 1984.

Absent a vigorous renewal in the rate of exploration for and development of energy resources in or adjacent to the district, we expect the caseload to remain at its present stable level or possibly even decline slightly.

New Personnel

The 1983 Legislative Assembly responded to our desperate need for a Probation Officer I and Secretary I in our juvenile court department. Because of a delay in the final phase of the Stark County Courthouse renovation project to provide space for those personnel, we will be unable to fill the new positions until early 1984. Selected from the large field of candidates for both positions were Probation Officer Scott Montgomery and Secretary Nancy Schmidt, both of whom we welcome to our staff. With their addition, we expect to be able to respond both more quickly and effectively to the important needs for juvenile court services in our area.

New Facilities

Our report to the Judicial Council last year proudly proclaimed the completion of the first phase of the Stark County Courthouse renovation project to provide a new jury courtroom, law library and district judge chambers. Unfortunately, the second phase of the project, which provided for juvenile court space, a small hearing room, and a necessary conference and jury room, was delayed because of budget problems experienced by the Stark County Board of Commissioners. However, we are pleased to report that the second phase finally got under way and will be completed during early 1984.

We are also grateful for the final completion of a handsome new courthouse in Billings County. Our facilities problems in Dunn County have also been alleviated by the construction of a new jury courtroom in the Dunn County building in Killdeer.

County Courts

The implementation of the new county court system starting January 1, 1983 proceeded remarkably well in the Southwest District. We have enjoyed excellent cooperation both among the three county judges within the district and with the district judges and court administrator.

Future Needs

The needs we stressed in recent years for new personnel and new court facilities to meet the expanded caseload have now been largely fulfilled. We do have four major contingencies to monitor in the energy development area but, absent the happening of any of those contingencies, we look forward to a stable and current case flow.

We have encountered some problems, judicially and administratively, in the clerks of court offices with URESA and child support actions generally. An advisory committee is being formed to study those problems and present recommendations for solutions which we hope to implement during 1984.

TABLE 14
SOUTHWEST JUDICIAL DISTRICT CASELOADS
FOR CALENDAR YEAR 1982 AND 1983

	1983	1982	Percent Difference
New Filings	**1,386**	**1,418**	**-2.3**
Civil	1,196	1,237	-3.3
Criminal	149	149	0
Juvenile	41	32	28.1
Cases Carried Over From Previous Year	**580**	**394**	**47.2**
Civil	541	374	44.7
Criminal	39	20	95.0
Juvenile	0	0	0
Total Cases Docketed	**1,966**	**1,812**	**8.5**
Civil	1,737	1,611	7.8
Criminal	188	169	11.2
Juvenile	41	32	28.1
Dispositions	**1,406**	**1,232**	**14.1**
Civil	1,206	1,070	12.7
Criminal	159	130	22.3
Juvenile	41	32	28.1
Cases Pending As of December 31	**560**	**580**	**-3.4**
Civil	531	541	-1.8
Criminal	29	39	-25.6
Juvenile	0	0	0

County Courts

County courts in North Dakota underwent a major transformation in 1983. A new uniform system of county courts took effect on January 1, 1983 and replaced the previous three-tier county court system. The new county courts differ from the old county courts in three other major aspects: 1) all county courts are now courts of records; 2) all county judgeships are now full-time positions; and 3) all county judges now must be legally trained. Under the old county court system most of the county courts were not court of records and many of the county judgeships were part-time positions staffed by laymen rather than licensed attorneys. As was the case under the old county court system, county courts under the new county court system are still funded by the counties.

There are 26 county judges in North Dakota. Fourteen of these judges serve more than one county. The legislation creating the new county court system authorized counties to contract with one another for the services of a single county judge. Through these contractual arrangements, called multi-county agreements, four county judges each serve a two county area, six county judges each provide judicial services to a three county area, and four county judges each render judicial services to a four county area. Eleven counties have a single county judge and one county, Cass County, has two county judges. Most of the multi-county courts operate within the boundaries of a single judicial district. In two instances, however, the multi-county courts cut across the boundary lines of two judicial districts. In another case the multi-county agreements have resulted in county judges who are part of three different judicial districts.

Another unique feature of the new county court system is the county magistrate. Because many county judges serve more than one county, they cannot always be in each county when they are needed. To insure continuity in judicial services in their absence, they can appoint a magistrate to handle preliminary matters in the county until they return. Through an administrative rule the Supreme Court has established the qualifications, authority, and procedures governing magistrates. In several counties, the county judge has appointed the clerk of the district court as the magistrate for the county.

Like the old county courts, the new county courts are limited jurisdiction courts. They have original and exclusive jurisdiction in probate, testamentary, guardianship, and mental health cases. They have concurrent jurisdiction with municipal courts in traffic cases and concurrent jurisdiction with the district courts in trust, criminal misdemeanor, and civil cases where the amount in controversy does not exceed $10,000. County judges also hold the preliminary hearing in criminal felony cases before the criminal defendant is turned over to the district court for trial.

County courts also act as small claims courts in North Dakota. The jurisdictional limit for a small claims case is $1,500. There is no appeal from the decisions of the county court when it is acting in its capacity as a small claims court. All decisions of the county courts in such instances are final.

While the subject matter jurisdiction of the new county courts is equivalent to the subject matter jurisdiction of the old county courts, their jurisdictional limits are generally higher. For instance, no county courts under the old county court system had concurrent civil jurisdiction with district courts in cases where the amount of controversy exceeded $1,000. As stated above, the concurrent jurisdiction for the new county courts is $10,000. Similarly, the jurisdictional limit for small claims cases under the old county courts was $1,000 compared to $1,500 for the new county courts. In addition, the presiding judge of a judicial district can assign district court cases, except for juvenile cases, to a county judge.

In establishing the new county court system, the Legislature also vested county court judges with the same power and authority as district court judges. Moreover, the rules of practice and procedure governing district court proceedings also apply to county courts. Thus, both in terms of their jurisdiction and authority, county judges under the new county court system have greater judicial responsibilities and power than their predecessors.

Appeals from the county court go directly to the Supreme Court. Under the old county court systems appeals from the county justice and county courts went to the district court while all appeals, except in probate cases, from county courts of increased jurisdiction went to the Supreme Court.

In addition to its trial court duties, county courts also serve as the appellate courts for appeals from municipal courts. All appeals from municipal courts to county courts are trial de novo appeals. In other words, when a municipal court case is appealed to the county court, a new trial is held in the county court. New trials are required in county courts because municipal courts do not maintain official records of their proceedings.

County court judges serve four year terms. If a county court vacancy occurs, the county commissioners can either fill the vacancy by selecting a candidate from a list of nominees submitted by a Judicial Nominating Committee or by calling a special election to fill the vacancy. The person chosen to fill the vacancy would then serve until the next general election. In those counties which share the services of a county judge, any appointment must be approved by a majority of the board members of all boards of county commissioners of all affected counties.

In counties with a population over 25,000, the county judge has the authority to appoint a clerk of county court. In counties with a population less than 25,000 the clerk of district court also serves as the clerk of county court.

County Court Caseload

Because the basic jurisdiction of the new county courts is similar to the jurisdiction of the old county courts, the composition of the county court dockets has changed little in the transformation process. Noncriminal traffic cases still predominate the county court dockets followed by criminal cases, small claims cases, other civil cases, and probate cases. The docket proportions for the 1983 new filings illustrated in Figure 7 closely approximate the docket proportions for the 1982 new filings.

Overall, the number of filings and dispositions in county courts increased in 1983. These statistics, however, should be viewed with caution since the comparison is between cases filed and disposed of under two different types of county court systems. This distinction is particularly noteworthy when comparing civil filings and dispositions in 1983 with civil filings and dispositions in 1982. Civil filings increased by 72% and civil dispositions by 67% in 1983. Much of the explanation for this large increase lies in the expanded civil jurisdiction of the new county courts. Whereas the civil jurisdictional limit of the old county courts was $1,000, the civil jurisdictional limit of the new county courts is $10,000. The increased civil jurisdiction of the new county courts also explains civil filings in district courts declined slightly in 1983. Since the filing fees for county courts are lower than the filing fees for district courts, many litigants chose to file civil cases where the amount of the dispute was less than $10,000 in county courts rather than in district court in order to reduce their litigation expenses.

The number of mental health hearings and preliminary hearings in criminal felony cases also increased significantly in 1983. Mental health hearings increased by 15% and preliminary hearings in felony cases by 10%. The increase in preliminary hearings in criminal felony cases is a reflection of the increased number of felony cases being filed in the district courts. The rise in mental health hearings seem to reflect a greater emphasis on the rights of the mentally ill and the deinstitutionalization movement in North Dakota.

Despite a rise from a jurisdictional limit of $1,000 to $1,500 for small claims actions, small claims cases increased only 4% in 1983. Criminal misdemeanor cases also increased only moderately (2%) in 1983.

All other types of cases declined in 1983, but with the exception of probate cases, the decrease was minuscule. Probate filings dropped 10%. However, whether this drop is significant is difficult to determine because the informal filing and dispositional procedures established by the Uniform Probate Code hinders the collection of accurate and consistent statistical data on probate filings and dispositions.

While the county court statistics give a good indication of the caseloads of the county judges, they do not fully represent all cases processed by county judges. For instance, they do not take into account district court cases assigned to county judges by the presiding judge of the judicial district. Thus, to some extent, the workload of county judges is greater than that revealed by the county court statistics.

FIGURE 7
TYPES OF CASES FILED
IN COUNTY COURT IN 1983

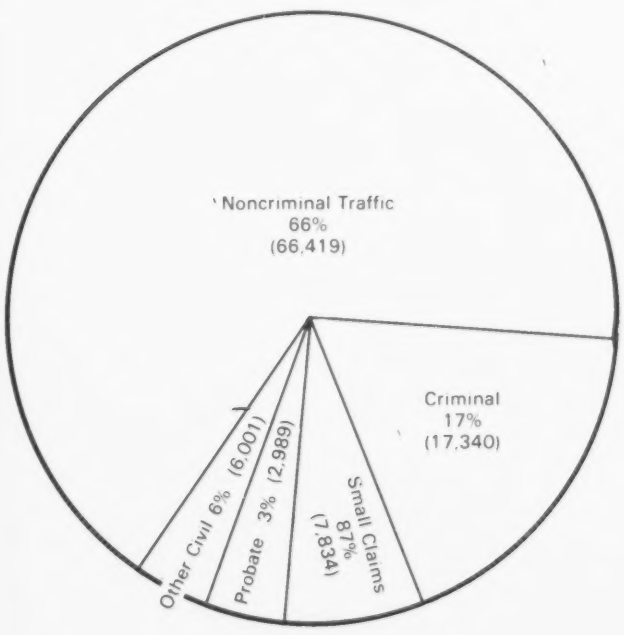


TABLE 15
SYNOPSIS OF COUNTY COURTS' CASELOAD
FOR 1982 AND 1983

	1983	1982	Percent Difference
New Filings	**100,583**	**98,220**	**2.4**
Civil	16,824	14,854	13.3
Criminal	17,340	16,902	2.6
Noncriminal Traffic*	66,419	66,464	-0.07
Cases Carried Over From Previous Calendar Year	**18,730**	**17,313**	**8.2**
Civil	14,861	13,325	11.5
Criminal	3,869	3,988	-3.0
Noncriminal Traffic	0	0	0
Total Cases Docketed	**119,313**	**115,533**	**3.3**
Civil	31,865	28,179	12.4
Criminal	21,209	20,890	1.5
Noncriminal Traffic	66,419	66,464	-0.07
Dispositions	**100,037**	**96,803**	**3.3**
Civil	15,554	13,318	16.8
Criminal	18,064	17,021	6.1
Noncriminal Traffic	66,419	66,464	-0.07
Cases Pending As of December 31	**19,276**	**18,730**	**2.9**
Civil	16,131	14,861	8.5
Criminal	3,145	3,869	-18.7
Noncriminal Traffic	0	0	0

**In the absence of data on filings for noncriminal traffic cases, dispositions for noncriminal traffic cases have been used as an indicator of filings.*

TABLE 16
COUNTY COURT FILINGS AND DISPOSITIONS
FOR 1983

County	Felony		Misdemeanor		Total Non-criminal Traffic	Small Claims		Probate		Guardianship/ Conservatorship		Other Civil		Mental Health & Emerg. Commit.
	(F)	(D)	(F)	(D)		(F)	(D)	(F)	(D)	(F)	(D)	(F)	(D)	
Adams	1	1	28	32	254	30	35	19	24	3	3	22	19	2
Barnes	37	50	542	624	2,686	315	242	71	19	8	0	41	37	37
Benson	13	12	271	262	1,332	53	55	29	25	0	1	58	51	7
Billings	8	8	106	108	1,314	15	15	11	9	1	0	1	1	1
Bottineau	29	27	277	264	964	101	96	89	39	5	8	33	32	16
Bowman	1	1	52	31	348	42	38	29	32	3	4	23	20	1
Burke	2	2	127	118	302	41	38	52	34	5	1	10	8	1
Burleigh	201	245	942	1,004	3,696	621	608	130	197	38	13	923	893	102
Cass	178	198	1,305	1,499	4,695	1,134	1,162	240	218	50	23	578	618	238
Cavalier	18	18	129	123	680	87	76	53	37	0	1	30	27	6
Dickey	2	1	79	58	457	117	95	45	16	10	0	41	38	1
Divide	5	5	100	95	249	43	42	60	45	5	2	12	9	2
Dunn	9	11	149	140	782	30	7	39	31	4	1	31	28	7
Eddy	1	1	41	39	270	35	29	24	14	3	0	7	6	4
Emmons	7	7	102	96	879	88	77	31	23	6	0	21	19	3
Foster	7	6	55	54	277	50	46	25	34	0	0	7	6	6
Golden Valley	8	8	28	32	270	32	15	45	10	8	2	16	15	4
Grand Forks	200	171	1,599	1,633	6,585	485	448	157	79	39	14	128	116	165
Grant	0	0	0	0	370	0	0	18	20	1	0	7	5	0
Griggs	5	7	105	156	702	42	39	23	16	5	0	9	9	2
Hettinger	4	4	47	51	168	32	31	27	22	7	0	24	23	5
Kidder	0	0	74	76	1,562	33	30	20	26	3	2	18	16	0
LaMoure	3	6	82	74	753	72	83	38	57	3	0	31	27	4
Logan	4	3	40	37	206	18	15	16	12	0	2	9	8	0
McHenry	16	20	176	177	974	61	54	61	97	7	4	13	13	10
McIntosh	12	12	52	50	214	32	31	28	6	2	0	25	23	0
McKenzie	51	48	510	356	1,875	165	160	71	98	8	1	50	37	14
McLean	21	20	222	221	1,156	80	69	50	26	10	3	53	46	14
Mercer	41	46	485	456	1,496	110	109	34	14	1	0	59	52	25
Morton	86	82	672	630	5,595	270	270	97	0	14	0	287	267	28
Mountrail	2	2	235	218	901	151	176	73	84	9	0	36	32	7
Nelson	1	1	127	173	587	39	36	39	35	4	1	22	19	2
Oliver	4	4	67	69	558	14	13	12	6	0	2	12	11	2
Pembina	26	23	202	188	834	176	173	73	127	6	6	105	99	7
Pierce	18	20	188	200	382	127	113	47	141	4	9	19	17	10
Ramsey	49	51	660	700	1,955	119	127	60	60	22	16	92	90	21
Ransom	12	10	145	137	379	72	59	38	30	2	2	19	14	1
Renville	4	4	52	52	393	4	4	52	46	6	4	6	5	0
Richland	21	26	200	282	1,791	155	173	95	85	20	3	41	37	14
Rolette	22	30	286	333	611	67	60	32	19	3	1	17	15	4
Sargent	9	5	73	59	346	76	64	32	21	1	2	6	5	2
Sheridan	1	1	21	18	79	16	17	20	12	1	0	6	6	0
Sioux	2	1	5	4	56	11	11	8	9	0	0	1	1	4
Slope	3	3	22	20	122	7	6	11	24	1	0	5	5	0
Stark	118	131	879	845	4,041	555	593	88	237	15	0	316	292	52
Steele	5	6	44	42	375	18	15	27	22	1	0	7	8	1
Stutsman	45	43	1,107	1,126	2,989	235	247	81	53	26	0	127	119	144
Towner	5	5	168	165	545	43	43	37	28	1	2	16	15	4
Traill	20	15	178	177	652	167	157	79	39	4	0	31	28	9
Walsh	35	45	633	654	1,076	635	294	101	72	15	3	216	205	47
Ward	95	144	1,068	1,302	3,401	437	420	177	74	29	4	413	405	116
Wells	4	3	67	67	421	43	41	37	34	1	0	19	19	5
Williams	143	157	902	987	2,814	433	541	129	100	19	2	251	248	55
TOTAL	1,614	1,750	15,726	16,314	66,419	7,834	7,398	2,989	2,638	439	142	4,350	4,164	1,212

Municipal Courts

There are 366 incorporated cities in North Dakota. Of these municipalities, 161 cities have municipal courts. There are 148 judges serving these 161 municipalities. State law permits an individual to serve more than one city as a municipal judge.

In 1981 the Legislature amended the state law pertaining to municipalities to allow each municipality the option of deciding whether or not to have a municipal judge. Before this amendment, all incorporated municipalities were required to establish a municipal court. Despite this requirement, those incorporated cities which did not have a police force tended not to have a municipal court.

The municipal judges have exclusive jurisdiction of all violations of municipal ordinances, except certain violations involving juveniles. Violations of state law are not within the jurisdiction of the municipal courts.

A municipal judge is elected for a four-year term. He must be a qualified elector of the city, except in cities with a population below 3,000. In cities with a population of 3,000 or more the municipal judge is required to be a licensed attorney unless an attorney is unavailable or not interested in serving. At present, there are 19 legally-trained and 129 lay municipal judges in the state.

State law requires that each municipal judge attend at least one educational seminar per calendar year conducted by the supreme court. If a municipal judge fails to meet this requirement without an excused absence from the supreme court, his name is referred to the Judicial Qualifications Commission for such disciplinary action as is deemed appropriate by the Commission.

Traffic cases comprise the bulk of the cases processed by municipal courts. In Fargo, for example, approximately 85 percent of the cases processed by the municipal court in 1983 were traffic cases. Of the non-traffic cases, 7.2 percent involved thefts and shoplifting, 3 percent were disorderly conduct cases, 2.3 percent concerned violation of the liquor laws, 2.1 percent related to the license and control of animals, and less than 1 percent were miscellaneous violations.

Most of the municipal courts' traffic caseload are noncriminal traffic cases or administrative traffic cases. In 1983 nearly 91 percent of the traffic cases processed by municipal courts were noncriminal traffic cases. While these cases greatly outnumber the criminal traffic cases, they generally take much less time to process. There is not only a lesser burden of proof in noncriminal traffic cases than in criminal cases, but most noncriminal traffic cases are disposed of by bond forfeitures. While no judge time is needed to process bond forfeitures, support personnel in the clerk's office must account for every citation received by the court.

Although criminal traffic cases compose only about 9 percent of the municipal courts' caseload, they require more time and resources for their disposition than noncriminal traffic cases. Litigants are more likely to demand a trial in criminal traffic cases since the penalties for violation of criminal traffic laws are more severe than violations of noncriminal traffic laws. Moreover, the prosecutor also has a greater burden of proof in criminal traffic cases than in noncriminal traffic cases. Whereas in noncriminal traffic cases the prosecutor has only to demonstrate a preponderance of evidence for conviction, in criminal traffic cases the prosecutor must prove each element of the charge beyond a reasonable doubt.

The majority (76%) of all traffic cases in the state are processed by ten communities containing about 40 percent of the state's population. Most of these communities experienced declines in traffic disposition in 1983. Of those communities which witnessed increases, three of them were in the western part of the state. The increases in these western communities probably reflect the demographic, social, and economic changes being experienced as a result of the energy development in the region. Some of the increase, particularly in Mandan, may also be due to greater emphasis on traffic enforcement by law enforcement officials.

It is noteworthy that criminal traffic cases decreased in 1983 after a steady rise over the last several years. This decline may reflect the deterrent effect of stiffer DUI penalties and the State Highway Patrol's RAID program as well as the increasing public visibility of DUI offenses engendered by MADD and other groups. Increased penalties for conviction may also have had the effect of encouraging more contested cases with the result of fewer convictions. As Table 20 illustrates, the conviction rate in criminal traffic cases in 1983 continued a decline which began in 1980.

TABLE 17
COMPARISON OF MUNICIPAL COURT TRAFFIC DISPOSITIONS FOR CALENDAR YEARS 1982 AND 1983

Type of Dispositions	Criminal Traffic Dispositions		Noncriminal Traffic Dispositions		Total Traffic Dispositions		Percent Difference
	1983	1982	1983	1982	1983	1982	
Conviction	4,065	4,413	48,689	46,660	52,754	51,073	3.3
Acquittal	912	760	1,571	2,013	2,483	2,773	-10.5
Dismissal	74	47	60	139	134	186	-28.0
TOTAL	5,051	5,220	50,320	48,812	55,371	54,032	2.5

TABLE 18
COMPARISON OF MUNICIPAL COURT TRAFFIC DISPOSITIONS FOR SELECTED MUNICIPALITIES

Ten Municipalities With Highest Case Volume	Criminal Traffic Dispositions		Noncriminal Traffic Dispositions		Total Traffic Dispositions		Percent Difference
	1983	1982	1983	1982	1983	1982	
Bismarck	586	502	6,417	6,929	7,003	7,431	-5.8
Dickinson	253	340	2,977	2,710	3,230	3,050	5.9
Fargo	352	435	4,053	4,475	4,405	4,910	-10.3
Grand Forks	660	684	3,945	3,391	4,605	4,075	13.0
Jamestown	148	186	2,634	3,623	2,782	3,809	-27.0
Mandan	221	243	4,298	2,297	4,519	2,540	77.9
Minot	627	605	7,729	8,007	8,356	8,612	-3.0
Wahpeton	176	205	974	1,021	1,150	1,226	-6.2
West Fargo	193	156	708	877	901	1,033	-12.8
Williston	408	498	5,442	4,824	5,850	5,322	9.9
TOTAL	3,624	3,854	39,177	38,154	42,801	42,008	1.9

TABLE 19
COMPARISON OF MUNICIPAL COURT TRAFFIC DISPOSITIONS FOR 1978-1983

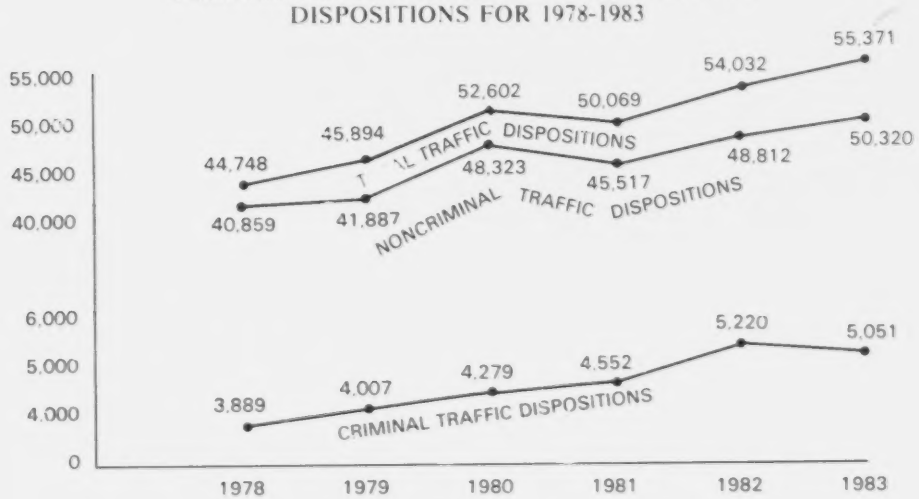
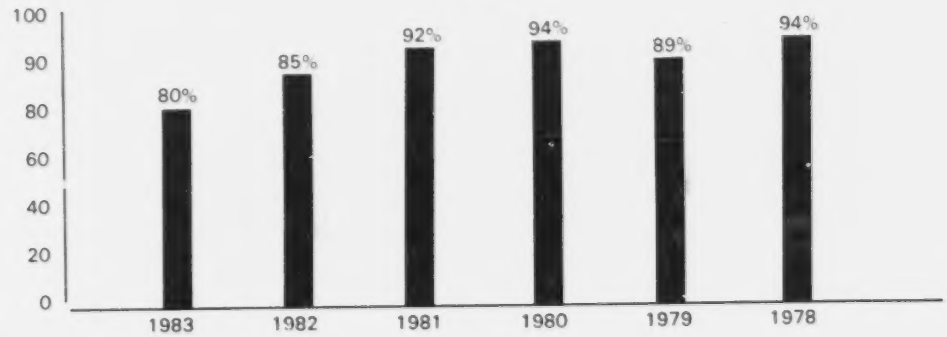


TABLE 20
CONVICTIONS IN CRIMINAL TRAFFIC CASES AS PERCENTAGE OF CRIMINAL DISPOSITIONS
1979-1983



Administration of the Judicial System

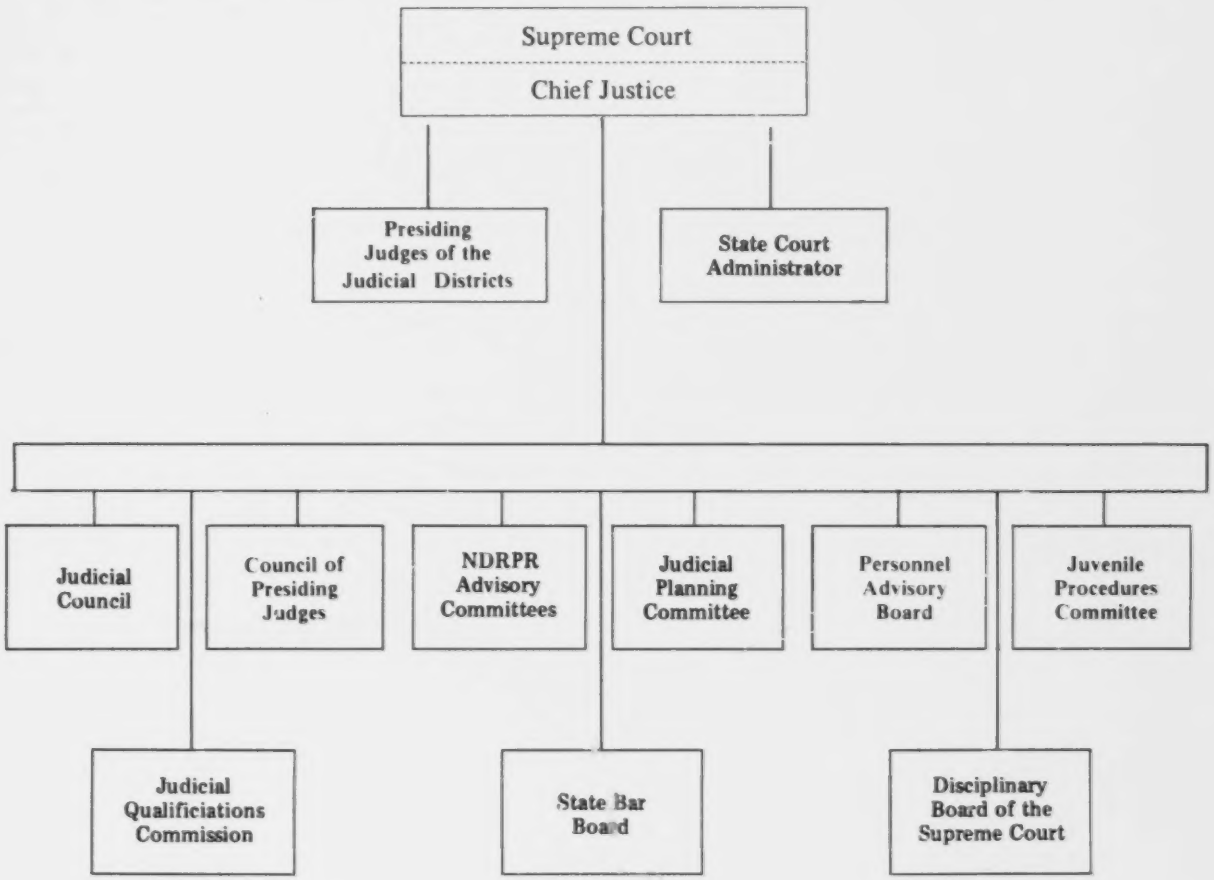
Ultimate responsibility for the efficient and effective operation of the judicial system resides with the supreme court. The constitution has emphasized the supreme court's administrative responsibility for the judicial system by designating the chief justice as the administrative head of the judicial system. In addition, the state constitution also grants the supreme court supervisory authority over the legal profession. Article VI, Section 3 states that the supreme court shall have the authority, "unless otherwise provided by law, to promulgate rules and regulations for the admission to practice, conduct, disciplining, and disbarments of attorneys at law."

To help it fulfill these administrative and supervisory responsibilities, the supreme court relies upon the state court administrator, presiding judges, and various advisory committes, commissions and boards. The functions and activities of these various bodies during 1983 are described in the subsequent pages of this report.

A diagram of the administrative organization of the North Dakota judicial system is provided in Figure 8.

FIGURE 8

ADMINISTRATIVE ORGANIZATION OF THE NORTH DAKOTA JUDICIAL SYSTEM



Office of State Court Administrator

Article VI, Section 3 of the North Dakota Constitution authorizes the chief justice of the supreme court to appoint a court administrator for the unified judicial system. Pursuant to this constitutional authority, the supreme court has outlined the powers, duties, qualifications and term of the state court administrator in an administrative rule. The duties delegated to the state court administrator include assisting the supreme court in the preparation of the judicial budget, providing for judicial education services, coordinating technical assistance to all levels of courts, planning for statewide judicial needs, and administering a personnel system.

Legislation

The State Court Administrator is responsible for monitoring legislation affecting the judiciary and providing legislative committees with information about the state's courts. He also has the responsibility for obtaining legislative sponsors for legislation endorsed by the Supreme Court and the Judicial Council. This legislative liaison function was especially important in 1983 because the Legislature was in session. A summary of some of the significant legislation concerning courts passed by the 1983 Legislature is provided below.

The Legislature enacted no major legislation affecting the court system in 1983. Perhaps the most significant legislation adopted in 1983 was a judicial retirement bill which will eventually equalize retirement benefits for all supreme court and district court judges by placing them under the same retirement system. While the Legislature also passed a study resolution calling for the study of the supreme court workload, the Legislative Council, in prioritizing study resolutions, declined to institute this study. Instead, it referred the matter to the supreme court with the suggestion that one of the judicial system advisory committees undertake this study. Legislation was also passed which recognized the Supreme court's authority to establish retention and destruction schedules for district court records.

At the urging of the judiciary, the Legislature also enacted many housekeeping bills designed to correct deficiencies in present law and procedure governing courts. These bills included legislation modifying the change of judge procedures, legislation permitting the presiding judge of a judicial district to assign mental health cases to a district court judge, and legislation eliminating minor conflicts, inconsistencies, and duplications between bar admission statues and the Supreme Court's Admission to Practice Rules. In addition, legislation providing for the deinstitutionalization of developmentally disabled persons and the creation of limited guardianships for them will likely have a significant impact on the workload of the county courts in the next two years.

Judicial Education

Under the guidance and supervision of the Judicial Council Committee on Judicial Training, the Office of State Court Administrator develops and coordinates training programs for all levels of judicial and court support personnel. In addition, a number of other professional development and information activities are coordinated and conducted under the auspices of the state court administrator. These activities are described in greater detail in the section of this report which discusses the activities of the Judicial Training Committee.

Judicial Planning

Staff services are provided to the Judicial Planning Committee and other advisory committees of the supreme court by the planning staff in the state court administrator's office. The duties of these staff personnel include research, bill drafting, rule drafting, arrangement of committee meetings, and such other tasks that are assigned by the various committees. Specific activities and projects of the different supreme court standing committees are provided in a latter section of this report.

Personnel Management

The state funding of most district court employees in 1981 significantly increased the personnel management responsibilities of the State Court Administrator. To insure uniformity in personnel administration across districts, personnel policies and a pay and classification plan for district court employees were developed under the direction of the State Court Administrator. As 1983 ended, the State Court Administrator was also developing a pay and classification plan for supreme court employees for submission to the supreme court.

Fiscal Responsibilities

One of the State Court Administrator's primary administrative responsibilities is the management of the judicial budget. As the budget director for the judicial system, he is responsible for the coordination and preparation of the supreme court and district court budgets, preparation and analysis of monthly budget status reports, the development of budgetary policies for the judiciary, and the maintenance of payroll records for judges and court personnel.

Different aspects of the judicial budget are highlighted in Figures 9, 10, and 11. As Figure 9 illustrates, even with the addition of most district court expenses to the judicial budget, the judicial budget constitutes only a small portion of the state's total budget for the 1983-85 biennium. However, this is not to say that the budgetary impact of the additional expenses has been minimal. Since the absorption of most district court expenses by the state in 1981, the judicial portion of the state's budget has doubled.

The impact of the state's funding of nearly all district court expenses can also be seen in the way in which the judicial budget is allocated. Whereas the supreme court portion of the judicial budget used to be over 40 percent, now it is less than 23 percent.

In viewing the judicial budget, it should be noted that it does not include the salaries of district court clerks and deputy clerks or any county court or municipal court expenditures. District court clerk expenses and county court expenses are funded by county government in North Dakota. Likewise, municipal courts are funded by the particular municipalities they serve.

FIGURE 9
JUDICIAL PORTION OF THE STATE'S BUDGET
1983-1985 BIENNIUM

Total General and Special Funds Appropriation
$2,144,610,028

Judicial System General and Special Funds Appropriation
$16,788,613

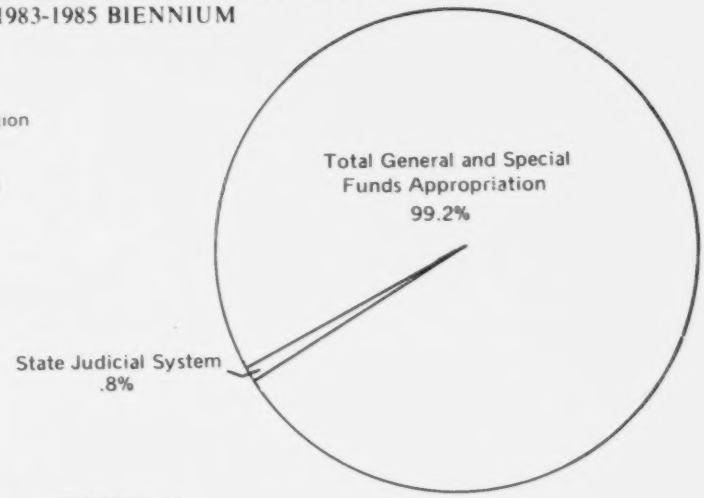
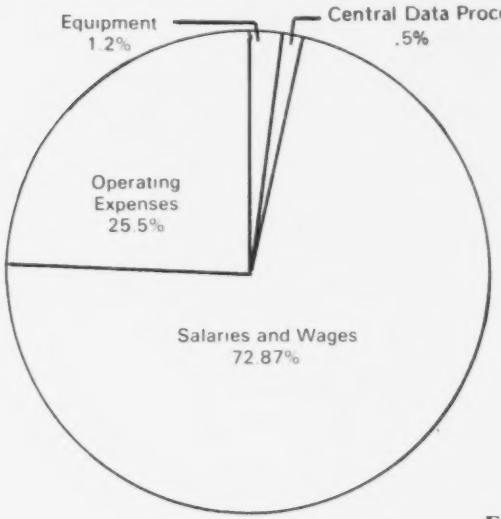


FIGURE 10
STATE JUDICIAL SYSTEM APPROPRIATION BY TYPE OF ACTIVITY
1983-1985 BIENNIUM

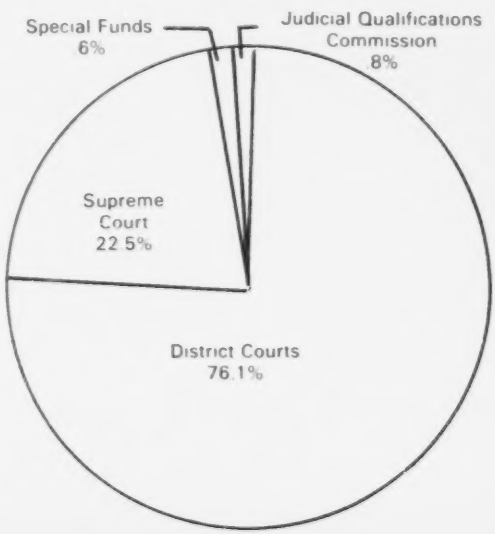


Total Judicial System General and Special Funds Appropriation
$16,788,613

Salaries and Wages	$12,224,627
Operating Expenses	4,283,369
Central Data Processing	82,000
Equipment	198,617

FIGURE 11
STATE JUDICIAL SYSTEM APPROPRIATION BY TYPE OF COURT
1983-1985 BIENNIUM

Supreme Court	
General Fund	$ 3,778,634
Special Funds	20,000
TOTAL	$ 3,798,634
District Courts	
General Fund	$12,778,453
Special Funds	—
TOTAL	$12,778,453
Judicial Qualification Commission	
General Fund	$ 136,526
Special Funds	75,000*
TOTAL	$ 211,526



* *Special Funds received include federal grant funds, funds from the State Bar Association for disciplinary procedures, and funds from the ABA.*

Advisory Committees of the North Dakota Judicial System

To assist it in its administrative supervision of the North Dakota Judicial System the supreme court utilizes the services of numerous advisory committees. These committees address specific problem areas within their study jurisdiction and make recommendations on the resolution of these problems to the supreme court.

Four of these committees — the Joint Procedure Committee, the Attorney Standards Committee, the Judiciary Standards Committee, and the Court Services Administration Committee — were established by the Supreme Court in 1978 as an essential part of its rulemaking process (NDRPR). One of these committees, the Joint Procedure Committee, existed before the supreme court adopted its rulemaking process, but was incorporated into the advisory committee structure created by the supreme court rulemaking process.

Other committees of the judicial system include the Judicial Planning Committee, the Personnel Advisory Board, the Special Committee on Judicial Training, the Juvenile Procedures Committee, the Sentencing Guidelines Committee, the North Dakota Legal Counsel for Indigents Commission, and the Council of Presiding Judges. All of these committees contribute to the improvement of court services in North Dakota. Summaries of their activities during 1983 are provided below.

The Judicial Planning Committee

The Judicial Planning Committee is the forum for overall planning for judicial services in North Dakota. It is chaired by Justice Vernon Pederson and its membership includes representatives of presiding judges, attorneys, district judges, county judges, municipal judges, court support personnel and the public. The role of the Committee is to identify, describe and clarify problem areas which can be referred to judicial leaders and other standing committees for resolution.

As part of its planning process, the Committee prepares a Judicial Master Program for each biennium which sets the goals, objectives and tasks for the North Dakota judicial system during that biennium.

Much of the Committee's efforts during 1983 were spent in preparing the *Judicial Master Program for the Biennium Ending June 30, 1985*. This Judicial Master Program was based on the local district plans submitted to the Committee and the results of a questionnaire on court services in North Dakota sent to attorneys, judges, court personnel and representatives of the public. This Judicial Master Program marked the first time in which the planning process was coordinated with the budgeting process to establish priorities for the North Dakota judicial system.

During 1983, the committee proposed, and the supreme court issues and problems. These included the future role of the Judicial Council, domestic relations caseload, the implementation schedule for the Judicial Master Program for the Biennium Ending June 30, 1985, the evaluation of the implementation of the Judicial Master Program for the Biennium Ending June 30, 1987, alternative forums for dispute resolution, media guidelines regarding court procedures, the future role of the North Dakota Fair Trial-Free Press Council, law clerk services for trial court judges, and the archival protection for North Dakota Supreme Court records. The Judicial Planning Committee also initiated a major subcommittee study of municipal court services in North Dakota

The Joint Procedure Committee

The Joint Procedure Committee is composed of ten judges, representing the judiciary, and ten attorneys, representing the State Bar Association of North Dakota. The committee is chaired by Justice Paul M. Sand of the North Dakota Supreme Court. Jim Harris serves as full-time staff counsel for the committee.

The committee's duties include study, discussion, and revision of the procedural rules of North Dakota, including the Rules of Civil Procedure, Criminal Procedure, Appellate Procedure, Evidence, and other rules of pleading, practice, and procedure. Whenever appropriate, the committee makes proposals to the supreme court to amend existing rules of procedure or to adopt new procedural rules.

During 1983, the committee proposed, and the Supreme Court adopted, amendments to the following procedural rules and appropriate explanatory notes:

Rules 4, 33, 50, 53, 54, 59, 60, and 62, North Dakota Rules of Civil Procedure;

Rules 12, 16, 17, 35, 37, 41, and 44, North Dakota Rules of Criminal Procedure;

Rules 1, 2.1, 12, 30, and 47.1, North Dakota Rules of Appellate Procedure; and

Rules 3.2, 8.2, 11.5, and 11.6, North Dakota Rules of Court.

The Committee met three times during 1983 to study a variety of procedural issues and problems brought to its attention. The committee also continued its study of the discovery process in civil actions in North Dakota and its comparison of the Uniform Rules of Criminal Procedure (1974) with the North Dakota Rules of Criminal Procedure.

The Attorney Standards Committee

The Attorney Standards Committee studies and reviews all rules relating to attorney supervision. Malcolm Brown of Mandan is the chairman of the Committee.

During 1983, the Committee initiated a major subcommittee study of the American Bar Association Model Rules of Professional Conduct in cooperation with the State Bar Association of North Dakota and the North Dakota Trial Lawyers Association. The study is scheduled for completion in 1985. In addition, the Committee also began a study of the future administrative structure of indigent defense and prosecution witness funding by the North Dakota judicial system pursuant to H.C.R. 3009.

At the request of the Court Services Administration Committee, the Committee reviewed the State Bar Association of North Dakota's proposal to restructure the appointment procedure to the Attorney Standards Committee and other Supreme Court advisory committees. It recommended several amendments to the SBAND proposal. The Committee proposed, and the Supreme Court approved, amendments to the Code of Professional Responsibility (DR 2-102) regarding lawyer advertising. The Committee also discussed a possible rule to permit judges to bar incompetent attorneys from courtrooms, but decided that adequate remedies were already available to deal with the problem.

The Judiciary Standards Committee

The Judiciary Standards Committee, chaired by Jane Heinley of Fargo, studies rules of judicial discipline, judicial ethics, the judicial nomination process, and all other rules relating to supervision of the judiciary.

In 1983 the Committee recommended, and the Supreme Court approved, amendments to Section A(2) of the compliance section of the North Dakota Rules of Judicial Conduct to clarify the ethical boundaries for part-time judges who practice law. The committee also approved and the Supreme Court set for hearing a recommendation to remove Rule 3A(7) and (8) from the Rules of Judicial Conduct and revise Administrative Order 1A-1980 regarding cameras in the courtroom.

Other topics studied by the Committee and its subcommittees included the need for a study of judicial disciplinary procedures of the Judicial Qualifications Committee and the rejuvenation of the Fair Trial-Free Press Council. At the request of the Council of the Presiding Judges the Committee also studied the issue of whether county judges should be prohibited from serving as tribal judges. It concluded that county judges should be allowed to serve as tribal judges and forward its recommendation to the Council of Presiding Judges. The Committee encouraged the State Bar Association of North Dakota to develop appropriate pamphlets regarding court services for use by the media. The Committee also discussed the shift of ultimate responsibility for the currency of pattern jury instructions from the bar to the North Dakota judicial system.

The Court Services Administration Committee

The Court Services Administration Committee studies and reviews all rules and orders relating to the administrative supervision of the North Dakota Judicial System. It is chaired by William A. Strutz of Bismarck.

During 1983 the Committee initiated a study of a rule regarding the role and function of the Council of Presiding Judges. It prepared a proposal for the combination of domestic relations case jurisdiction and juvenile case jurisdiction within a flexible family law jurisdiction within the North Dakota judicial system. The Committee studied proposals regarding adjustment of judicial district boundary lines and possible study of the implications of state funding for clerks of district court and county courts.

Three important subcommittee studies were also initiated during 1983. One subcommittee was charged with the responsibility of studying the appellate procedures for non-Administrative Agency Practice Act administrative agencies. Another subcommittee was created to study the future structure of appellate court services in North Dakota. The third subcommittee was established to study the structure, levels, and revision process of clerk of district court and clerk of county court fee schedules in North Dakota.

The Committee monitored 1983 legislative proposals of interest to the North Dakota Judicial System.

The Committee made a recommendation to the Supreme Court endorsing the State Bar Association of North Dakota's proposal to restructure the appointment procedure for the Attorney Standards Committee and other Supreme Court committees.

The Personnel Advisory Board

The Personnel Advisory Board was established by the Supreme Court on January 21, 1982. It has two primary functions: (1) to serve as an advisory board for the development of personnel policies for the judicial system and (2) to serve as a review board for employee grievances and other personnel matters.

The Board has five members consisting of a supreme court justice, a district court judge, and three district court employees. All five members are appointed by the Chief Justice for three year terms.

During 1983 the Board recommended and the supreme court adopted a performance appraisal system for judicial employees. This performance appraisal system should provide the mechanism for allowing the judiciary to base part of an employee's compensation on his performance. In addition, the Supreme Court also approved the Board's recommendation on job descriptions for law clerks and a clerical staff series.

On the authorization of the Chief Justice, the Board established a procedure for reviewing vacancies in the districts to determine if positions should be transferred to districts with greater personnel needs. Following this procedure, it reviewed several vacancies and recommended that only one position be transferred from one district to another district.

The Board also initiated a review of the salary grades for legally trained referees and affirmative action programs in 1983. Development of a more comprehensive compensation policy dealing with starting salaries for new employees, probationary salary adjustments, reclassification salary adjustments, and other types of salary adjustments was also begun by the Board. These projects are scheduled for completion in 1984.

The Juvenile Court Procedure Committee

The Juvenile Procedure Committee continues to work on standardizing procedures across the state. It has been found that different staffing levels have necessitated differences in procedures.

The Committee approved forms to be used on a statewide basis in juvenile courts. Additionally, subcommittees worked on procedures in detention and shelter care and on staffing levels in the juvenile court.

Special Committee on Judicial Training

The Judicial Council Special Committee on Judicial Training develops and approves training programs for judges and court personnel of the North Dakota judicial system. In addition, to its program function, the Committee sets priorities for out-of-state training, reviews training manuals, establishes policy guidelines on judicial training, and recommends a biennial training budget for inclusion in the judicial budget. The Committee is chaired by the Honorable Larry Hatch, a district court judge in the South Central Judicial District.

The Committee approved and the Office of the State Court Administrator conducted eleven instate training programs during 1983. These programs were attended by 545 judges and court personnel of the North Dakota judicial system. One of these programs, the Annual Bench / Bar Seminar, was jointly sponsored by the judicial system and the State Bar Association of North Dakota and offered a unique opportunity for judges and attorneys to learn together and from one another in a seminar setting.

Because fiscal restraint by both the federal and state government has reduced the amount of funding available for out-of-state training, the judicial system has emphasized the fulfillment of the training needs of its judges and court personnel through instate programs. Within available funds, however, out-of-state programs continue to be utilized as complements to instate programs. Under guidelines established by the Judicial Training Committee, newly elected or appointed judges have the highest priority for attending out-of-state training programs. General jurisdiction judges who have not attended an out-of-state program in three or more years have the next highest priority.

The Sentencing Guidelines Committee

The Sentencing Guidelines Committee issued its first report on the sentencing practices of district judges for the years 1981 and 1982.

The report was designed to condense the previous card system, which was felt to be too cumbersome, and provide judges with a range of sentences for particular crimes.

The Committee reviewed the comments of the first report and will make some changes to the 1983 report.

The Council of Presiding Judges

The Council of Presiding Judges consists of the presiding judge of each of the seven judicial districts with the chairman being named by the Chief Justice. Present members of the Council are: The Honorable Douglas B. Heen, Chief Presiding Judge; The Honorable A.C. Bakken; The Honorable Norman J. Backes; The Honorable Benny A. Graff; The Honorable Maurice R. Hunke; The Honorable Wallace D. Berning.

The role of the Council of Presiding Judges centers primarily in the area of budgets and caseloads with the responsibility for ensuring that the business of the courts is handled with dispatch and efficiency. The Council meets on call of the chairman. In attendance at each meeting is the Chief Justice and the State Court Administrator. The State Court Administrator's staff acts as staff to the Council.

In 1983, the Council of Presiding Judges met five times. At each meeting there was a review of the district court budgets as they relate to the legislative appropriation and the various program areas within the district courts. As 1983 was a legislative year, there was a need for the Council of Presiding Judges to consider carefully the amended appropriation bills as passed by the House or Senate.

Some of the other major issues that came before the presiding judges in 1983 were the matters of amounts to be paid to free-lance court reporters in the district courts, the matter of who was to be responsible for payment for the repair of stenographic machines for court reporters, the matter of judicial assignments between districts, the matter of purchase of judicial robes, and the matter of payment for ABA dues for district judges.

The North Dakota Legal Counsel for Indigents Commission

The North Dakota Legal Council for Indigents Commission is composed of seven members who are appointed by the Chief Justice. Bruce Bohlman of Grand Forks is the chairman of the Commission.

The Commission provides rules and guidelines for the adminis-

tration of indigent defense services in North Dakota. It provides a mechanism for the resolution of counsel fee disputes between judges and court appointed attorneys or contract attorneys who are representing indigent defendants in criminal, mental health, and juvenile cases. The Commission also provides technical assistance concerning indigent defense services to judicial districts and counties.

The funds appropriated by the Legislature for indigent defense services in the district courts of North Dakota are administered through the Office of State Court Administrator. However, because of conflict of interest concerns arising from vesting the funding for indigent defense and prosecution witness services in the judicial system budget, the Commission is studying alternate ways of administering indigent defense services.

In 1983 the Commission adopted a model contract for judicial districts and counties wishing to contract with attorneys for indigent defense services and model indigent defense contract bid procedures and specifications. The Commission also adopted, in cooperation with the North Dakota States Attorneys Association, a method for improving reimbursement procedures for indigent defense expenditures in appropriate cases through private collection agencies. It also published the *North Dakota Judicial System Indigent Defense Procedures and Guidelines.*

In 1983, through the State Bar Association of North Dakota, the work of the Commission was nationally recognized with the 1983 Harrison Tweed Award of the American Bar Association.

During 1983 the Commission received its first fee dispute between a judge and a court-appointed attorney for an indigent defendant. It also began a study of the rising costs of defense services and possible methods which could be used to contain these costs.

Disciplinary Board of the Supreme Court

The Disciplinary Board of the Supreme Court has responsibility for handling complaints alleging unethical conduct by North Dakota attorneys.

There are seven lawyer and three non-lawyer members of the Board. The members of the Board are as follows: Mark L. Stenehjem, Williston, Chair; Robert Vaaler, Grand Forks, Vice-Chair; John M. Arntson, Fargo; Gerald D. Galloway, Dickinson; Carlan J. Kraft, Rugby; Ann McLean, Hillsboro; Ruth Meiers, Ross; David L. Peterson, Bismarck; Ronald G. Splitt, LaMoure. Luella Dunn, Clerk of the Supreme Court, serves as the ex-officio Secretary to the Board. The staff counsel for the Board is Vivian Berg.

Complaints against attorneys are docketed by the Board's Secretary and forwarded to the Board and either to the Chair of Inquiry Committee East or the Chair of the Inquiry Committee West of the State Bar Association. An investigation is then conducted by either a member of the respective Committees or the staff counsel for the Board. All parties to a complaint have a right to appear before the inquiry committee.

The Inquiry Committees may dismiss or may recommend discipline to the Disciplinary Board. The Board may also dismiss, or it may issue a private reprimand, in which event the attorney may request a formal hearing. If the Disciplinary Board recommends a public reprimand, suspension, or disbarment, the matter proceeds much as a civil case. It is heard generally by a three-member Hearing panel, although it may be set befor a hearing officer or the Board en banc.

A Hearing Panel may also dismiss or refer to the Disciplinary Board for a private reprimand. If a greater sanction is recommended, the matter is presented to the Supreme Court with briefs and oral argument. Review is *de novo* on the record and the standard of proof for the Disciplinary Board is clear and convincing evidence.

During 1983 the Disciplinary Board received a $20,000 grant from ALI/ABA for a Peer Assistance Commission. This Commission, chaired by Daniel R. Twichell, Fargo, offers assistance to attorneys on a voluntary basis and has been organized with the substantial involvement of the State Bar Association.

The disciplinary system in North Dakota was evaluated by the Standing Committee on Professional Discipline of the American Bar Association in May, 1983, providing assistance in considering what procedural changes might be made to improve attorney discipline in North Dakota.

Following is a summary of complaints handled by the Disciplinary Board in 1983. Included in the complaints pending December 31, 1983, are 10 complaints in which formal disciplinary proceedings have been instituted.

TABLE 21
SUMMARY OF DISCIPLINARY BOARD COMPLAINTS FOR THE YEAR 1983

Disciplinary proceedings pending from prior year	10
Complaints carried over from previous year	23
New Complaints filed for the year 1983	98
General nature of new complaints filed:	
Advertising and solicitation	2
Client funds and property	3
Conflict of interest	11
Continuing Legal Education requirements	28
Criminal conviction	1
Excessive fees	8
Failure to communicate with client	12
Improper conduct	9
Incompetent representation	19
Misrepresentation/Fraud	1
Neglect – delay	3
Unauthorized practice of law	1
TOTAL	98
Total complaints for consideration in 1983	131
Disposition of Complaints:	
Dismissed by Inquiry Committee	81
Dismissed by Disciplinary Board	4
Dismissed by Hearing Panel	1
Private reprimands issued	6
Suspension	1
Disciplinary proceedings instituted and pending	10
TOTAL	103
Complaints pending 12/31/83	28

Judicial Qualifications Commission

The Judicial Qualifications Commission was established by the legislature in 1975 with the enactment of Chapter 27-23 of the North Dakota Century Code. It was empowered to investigate complaints against any judge in the state and to conduct hearings concerning the discipline, removal, or retirement of any judge.

The seven members of the Commission include one district judge, one county judge, one attorney, and four citizen members. Members of the Commission are Louise Sherman, Dickinson, Chair; Ernest Pyle, West Fargo, Vice-Chair; Arne Braaten, Minot; Norene Bunker, Fargo; Honorable Gary A. Holum, Minot; Honorable William A. Neumann, Rugby; Frederick E. Whisenand, Williston. The Clerk of the Supreme Court, Luella Dunn, is the ex-officio Secretary of the Commission. The staff counsel for the Commission is Vivian Berg.

Complaints against judges are filed by the Commission's Secretary who acknowledges their receipt and forwards them to Staff Counsel for investigation. The judge against whom the complaint is filed is given notice and provided an opportunity to present such matters as he or she may choose.

Of the 17 complaints filed in 1983:

7 were against district judges
7 were against county judges
2 were against municipal judges
1 was against a small claims court judge

By far the majority of complaints are dismissed as being without merit. However, the Commission may issue a private censure or direct that formal proceedings be instituted. If formal proceedings are instituted, the matter may be heard by the Commission or by a master or masters appointed by the Supreme Court.

A review of the following table, summarizing the nature and disposition of complaints in 1983, suggests that many complaints reflect matters properly the subject of appellate review.

TABLE 22
JUDICIAL QUALIFICATION COMMISSION
SUMMARY OF COMPLAINTS
FOR THE YEAR 1983

Formal proceedings pending from prior years	0
Complaints carried over from previous year	8
New complaints filed for the year 1983	17
General nature of new complaints filed:	
Lack of judicial temperament in court	1
Failure to comply with the law	6
Improper conduct	2
Biased decision	1
Conflict of interest	3
Failure to afford complainant due process	2
Alleged outside influence on decision	1
Questionable judicial campaign practice	1
TOTAL	17
Total complaints for consideration in 1983	25
Disposition of Complaints:	
Dismissed	18
Private censure	1
Formal proceedings instituted	1
TOTAL	20
Complaints pending 12 31 83	5

The State Bar Board

The North Dakota State Bar Board was created by statute in 1919. One of its duties is to offer a bar examination at least once each year. Recommendations for admission to the Bar by examination are made to the Supreme Court by the Bar Board based upon the results of the examination and a character investigation. Annual license fees for attorneys are collected by the State Bar Board and licenses issued. Each year the Bar Board publishes a directory of attorneys and judges. In 1983, there were 1,355 attorneys licensed to practice in this state compared with 1,257 the previous year.

The statute creating the State Bar Board provides for a three-member board comprised of resident, licensed members of the Bar of North Dakota appointed by the Supreme Court. The terms are for six years. The members of the Board during 1983 were John D. Kelly of Fargo, President; Malcolm H. Brown of Mandan; and Gerald D. Galloway of Dickinson. The Clerk of the Supreme Court serves as ex-officio Secretary-Treasurer of the Bar Board.

Two bar examinations were administered in 1983, a February exam in Bismarck and a July exam in Grand Forks. Twenty-five individuals wrote the exam in Bismarck and 110 in Grand Forks. Of the 25 who wrote the February exam, 11 were graduates of the University of North Dakota Law School while in July, 79 of the 110 were UND graduates. One hundred twelve of the total applicants, or 83 percent, successfully completed the exams.

Six subjects are tested by the multistate portion of the bar examination, and essay exams are given in six subjects. This year the Bar Board again chose to give the Multistate Professional Responsibility exam rather than an essay exam in legal ethics. The MPRE is an objective exam on professional ethics administered three times per year at the University of North Dakota.

One hundred twenty three individuals were admitted to the Bar of North Dakota in 1983. Twelve of those individuals were admitted on motion, having practiced law in another state for the required period of time.

Judicial Council

The North Dakota Judicial Council was established as an arm of the judicial branch of state government in 1927. Present statutory language governing the Judicial Council is found in Chapter 27-15, NDCC.

There are currently 74 members of the Judicial Council. Of these, the dean of the School of Law at the University of North Dakota, the attorney general, and all supreme court justices, district court judges, and county court judges are ex officio members of the Council. In addition, all retired supreme court justices and district court judges are Council members. The non-ex officio members of the Council include five members of the practicing bar appointed by the Board of Governors of the State Bar Association of North Dakota and two municipal judges appointed by the North Dakota Supreme Court.

All non-*ex officio* Council members serve for two year terms while retired supreme court and district court judges are members for the duration of their retirement. Vacancies on the Judicial Council are filled by the authority originally selecting the member.

The chief justice of the North Dakota Supreme Court serves as chairman and the State Court Administrator as executive secretary of the Judicial Council. Under North Dakota law the Judicial Council is required to meet twice a year. These meetings are usually held in June and November. Special meetings, however, may be called by the chairman. While members of the Judicial Council are not compensated for their services, they are reimbursed for expenses incurred in the discharge of their Council duties.

The Judicial Council is authorized by statute to make a continuous study of the judicial system of the state to improve the administration of justice. To fulfill this function it has the authority to hold public hearings, subpoena witnesses and materials, and enforce obedience to its subpoenas. It may recommend improvements in the judicial system to the governor or Legislature and make recommendations regarding rules of practice and procedure to the supreme court. It is also required by law to submit an annual report on the workings of the judicial system to both the governor and the

During 1983 the Judicial Council reviewed all court related legislation being proposed for introduction to the 1983 Legislature by several advisory committees. Those legislative proposals it endorsed were submitted to the legislature for enactment.

The Council also created a special committee to study its future role in the judicial system. Judge William Neumann of Rugby was appointed to chair the committee.

Membership of the North Dakota Judicial Council

JUSTICES OF THE SUPREME COURT

Ralph J. Erickstad, Chief Justice, Bismarck
Vernon R. Pederson, Justice, Bismarck
Paul M. Sand, Justice, Bismarck
Gerald W. VandeWalle, Justice, Bismarck
H.F. Gierke III, Justice, Bismarck

JUDGES OF THE DISTRICT COURTS

NORTHWEST JUDICIAL DISTRICT

*Wallace D. Berning, Minot
Everett Nels Olson, Minot
Jon R. Kerian, Minot
Wm. M. Beede, Williston
Bert L. Wilson, Williston

NORTHEAST JUDICIAL DISTRICT

*Douglas B. Heen, Devils Lake
James H. O'Keefe, Grafton
Wm. A. Neumann, Rugby

NORTHEAST CENTRAL JUDICIAL DISTRICT

*A. C. Bakken, Grand Forks
Kirk Smith, Grand Forks
Joel D. Medd, Grand Forks

EAST CENTRAL JUDICIAL DISTRICT

*Norman J. Backes, Fargo
John O. Garaas, Fargo
Lawrence A. Leclerc, Fargo
Michael O. McGuire, Fargo

SOUTHEAST JUDICIAL DISTRICT

*Robert L. Eckert, Wahpeton
Gordon O. Hoberg, Jamestown
John T. Paulson, Valley City

SOUTH CENTRAL JUDICIAL DISTRICT

*Benny A. Graff, Bismarck
Gerald G. Glaser, Bismarck
Dennis A. Schneider, Bismarck
Wm. F. Hodny, Mandan
Larry M. Hatch, Linton

SOUTHWEST JUDICIAL DISTRICT

*Maurice R. Hunke, Dickinson
Lyle G. Stuart, Hettinger
Allan L. Schmalenberger, Dickinson

JUDGES OF THE COUNTY COURTS

James M. Bekken, New Rockford
Ralph W. Bekken, Stanley
A.S. Benson, Bottineau
Tom M. Beyer, Dickinson
C. James Cieminski, Valley City
Donald Cooke, Fargo
Ronald M. Dosch, Devils Lake
Donavin L. Grenz, Linton
F. Gene Gruber, Hettinger
Harold B. Herseth, Jamestown
Gary A. Holum, Minot
Donald Jorgenson, Dickinson
Frank J. Kosanda, Grand Forks
Bayard Lewis, Wahpeton
John C. McClintock, Rugby
Wm. W. McLees, Jr., Watford City
Thomas Metelmann, Cavalier
Gary D. Neuharth, Ellendale
Burt L. Riskedahl, Bismarck
Cynthia Rothe, Fargo
Lester Schirado, Mandan
Orville A. Schulz, Washburn
Gordon Thompson, Williston
Lowell O. Tjon, Lisbon
Jonal Holt Uglem, Hillsboro
Theodore Weisenburger, Grafton

JUDGES OF THE MUNICIPAL COURTS

Robert Brown, Mayville
Daniel Buchanan, Jamestown

ATTORNEY GENERAL

Robert O. Wefald, Bismarck

UND SCHOOL OF LAW

Jeremy Davis, Dean, Grand Forks

MEMBERS OF THE BAR

J. Phillip Johnson, Fargo
Patrick J. Maddock, Grand Forks
Walfrid, B. Hankla, Minot
Charles A. Feste, Fargo
Paul G. Kloster, Dickinson

RETIRED JUDGES OF THE SUPREME AND DISTRICT COURTS

Hamilton E. Englert, Valley City
C. F. Kelsch, Mandan
Roy A. Ilvedson, Minot
Eugene A. Burdick, Williston
M.C. Fredricks, Jamestown
Wm. L. Paulson, Detroit Lakes, MN
Wallace E. Warner, Green Valley, AZ
Norbert J. Muggli, Dickinson

EXECUTIVE SECRETARY

William G. Bohn

**Denotes Presiding Judge*